



FINAL REPORT:
William & Mary Task Force on the
Prevention of Sexual Assault and
Harassment

June 30, 2015

FINAL REPORT

William & Mary's Task Force on Preventing Sexual Assault and Harassment

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Introduction

On September 3, 2014, President W. Taylor Reveley, III officially created and issued a charge to William & Mary's Task Force on Preventing Sexual Assault and Harassment. That 21-member team of students, faculty, and staff from across the university has shown deep devotion to understanding this problem in all its complexity and to making meaningful recommendations on what W&M can and should do to strengthen and expand our efforts in all areas – campus climate, education and prevention, training for faculty and staff, and investigation and adjudication.

Over the last nine months, we have actively followed the national conversation around these and related issues, and in subcommittees aligned with the four elements of the task force charge, we have engaged our work in earnest. As was affirmed at the outset, we stepped boldly into a fast-flowing current that required skillful navigation in real time, even as the task force moved forward with deliberate and thorough consideration of multiple issues. William & Mary's efforts to improve, to innovate, and to be responsive to the problem of sexual assault and harassment did not wait until June 30 when the task force completed this report for the president's review. As a result, our report spotlights both actions taken over the course of this year and our recommendations for continued forward movement. We have been and will continue to work in a dynamic environment, the momentum of which inspires us at every turn to do our best work for the students who call this place home.

Virginia M. Ambler, Vice President for Student Affairs and Task Force Chair

President's Charge to the Task Force

"I am extremely grateful to each of you for agreeing to serve. This group has very important work to do for William & Mary.

At the outset, we should be clear that William & Mary is fully committed to providing a safe and supportive environment for our students and all other members of the campus community. This is essential in meeting our ethical obligations to one another. It also recognizes that taking full advantage of the robust education we offer is feasible only when members of the campus feel safe and unharassed. Too, we must meet the federal government's legal mandates regarding sexual assault and harassment. In short, we have an ethical, educational, and legal obligation to provide an environment free of these evils.

You also know that the federal Office of Civil Rights (OCR) has included William & Mary among more than seventy institutions being investigated for Title IX compliance, based on each school's having at least one pending Title IX complaint. This investigation will put additional scrutiny on the effectiveness of our policies and procedures, but it is not what motivates the task force. Rather, our goal is to ensure that our efforts in education, prevention, and response to sexual assault and harassment live up to our own high ideals.

I ask the task force to undertake the responsibilities noted below:

CAMPUS CLIMATE: Conduct a campus-wide survey to assess the scope of the problem of sexual assault and sexual harassment on our campus, to understand the level of awareness of campus resources for responding to both, and to engage any related issues that can guide institutional decision-making. The survey ought to include the collection of both quantitative data (questionnaires) and qualitative data (focus groups, town hall discussions, and the like). The task force's report should include significant findings as well as related recommendations.

PREVENTION & EDUCATION: Assess the effectiveness of our current strategies and staffing to prevent sexual assault and harassment and to educate the campus community (undergraduate and graduate students, faculty, staff and parents) about them. Your report should include recommendations for more effective prevention and education.

TRAINING FOR FACULTY AND STAFF: Examine best practices and avenues for delivering training for faculty and staff. Your report should include recommendations for training to ensure legal compliance and to meet broader institutional goals.

INVESTIGATION & ADJUDICATION: Within the context of compliance obligations and the university's goals of prompt and equitable response to complaints, examine our current practices and procedures for investigating and adjudicating allegations of sexual assault and harassment. Make recommendations regarding investigation and adjudication to whatever extent you find appropriate.

While these matters can affect faculty and staff as well as students, the scope of your charge is the student experience. In conducting your work, please seek broad campus-wide advice and recommendations. Provide the campus with periodic updates. And be sure to coordinate your activities with the relevant offices on campus, especially those of the Dean of Students and the Chief Compliance Officer. In conducting the survey and in carrying out other aspects of your work, you may need additional support; please work with the provost to find the resources needed. Finally, I ask that you report your findings and recommendations to me no later than June 30, 2015.

Sexual assault and harassment on campus pose important issues, ones faced by every college and university throughout the country. Your efforts will help ensure sure that William & Mary deals with them honestly, effectively, and fully."

W. Taylor Reveley, III, President
(See Appendix A)

Committee Membership

Virginia Ambler, Vice President for Student Affairs, Task Force Chair
Kiersten Boyce, Chief Compliance Officer, Title IX/ADA Coordinator
Deb Cheesebro, Chief of Campus Police
Carla Costello, President's Office, Staff to the Task Force
David Dessler, Associate Professor of Government, President of the Faculty Assembly
Jodi Fisler, Director of Student Affairs Planning & Assessment
Eric Garrison, Assistant Director of Health Promotion
David Gilbert, Associate Dean of Students, Director of Student Conduct
Chon Glover, Chief Diversity Officer
Alex Greenspan, Undergraduate Student, Class of 2015
Susan Grover, Vice Provost for Academic & Faculty Affairs
Peel Hawthorne, Associate Athletic Director for Student Services
Donna Haygood-Jackson, Senior Assistant Dean of Students, Director of Care Support Services
Rowan Lockwood, Associate Professor of Geology, Faculty Co-Chair of the W&M Women's Network
Deb Love, University Counsel
Anna Martin, Vice President for Administration (retired February 2015)
Jenny Putzi, Director, Gender, Sexuality & Women's Studies
Helis Sikk, Graduate Student, Ph.D. Program in American Studies
Marjorie Thomas, Dean of Students
Mallory Tucker, Undergraduate Student, Class of 2015
Cynthia Ward, Professor, School of Law

Task Force Organization

The task force met monthly as a committee-of-the-whole from September 2014 through May 2015, including an extended retreat day in January (See Appendix B for meetings agendas and minutes). Organized around the specific areas of focus described in the president's charge, four separate subcommittees were formed with the following leadership, and our March 2015 meeting involved only these subcommittee leaders with the task force chair. In between the task force's meetings-of-the-whole, each subcommittee maintained a regular meeting schedule as they each planned and executed their work over the course of the nine months.

Campus Climate Subcommittee – Jodi Fisler (chair)

Prevention and Education – Anna Martin (chair, Sept-Feb) and Deb Cheesebro (chair, Feb-June)

Training for Faculty and Staff – Chon Glover (chair)

Investigation and Adjudication – David Gilbert (chair)

Committee Member Education

Professional Development Activities

Members of the task force recognized how essential it was for us to be as educated as possible around the complex issues facing colleges and universities in the area of sexual assault and harassment. Appendix C includes a partial listing of educational programs attended by one or more task force members this year.

Media Monitoring

As a task force, we also recognized the need to understand how the issue of campus sexual violence was being discussed at the national, state, and local levels. A weekly email was sent to members of the task force with links to relevant media coverage. Those links were also posted simultaneously to the Task Force website under the heading “Sexual Assault and Harassment in the News.” Our goal was to increase awareness and knowledge for ourselves and the broader W&M community so that campus-wide conversations might be richer and more nuanced. Stories on the website are categorized by month, though there is a separate heading for the flurry of media activity following the now-discredited *Rolling Stone* article about an alleged assault at the University of Virginia. (See Appendix C)

Task Force Activities/Accomplishments

- Campus Panel Discussion: William & Mary's Sexual Assault and Harassment Policy (Nov) -- sponsored by the task force with members serving as moderator and panelists
- “Gender-Based Discrimination and Violence at W&M: An Open Conversation” (Feb) – a campus-wide evening of conversation in large and small groups, led by students on the task force
- Student Focus Groups – conducted in order to better assess campus climate
- Faculty/Staff Focus Groups – conducted to solicit perspectives on campus climate for students
- National Sexual Misconduct Campus Climate (NSMCC) Survey – a quantitative campus climate assessment sent to all William & Mary students (27% response rate)
- Faculty/Staff On-Line Training – 100% of faculty and staff completed mandatory, on-line training on sexual violence/harassment prevention and reporting obligations
- Sexual Misconduct Policy Revisions – mid-year changes approved by the president
- Study of Various Campus Sexual Misconduct Adjudication/Resolution Models
- Review of Policies, Sanctions, Procedures, Records and Access – to inform recommendations
- Participation in Legislative Hearings – task force presence at General Assembly hearings
- Coordination with the Governor’s Task Force – regular briefings by AVP Fran Bradford
- [Task Force Website](#) – created to keep community informed and to solicit feedback on-line
- Presentations and Discussions about the Task Force’s Work – engaged a variety of on- and off-campus groups in discussions about sexual assault on campus, to include the Board of Visitors, W&M Deans & Vice Presidents, W&M Parent & Family Council, All-Together (community group), fraternity and sorority chapter advisors, University Advancement staff, Student Affairs staff

- Compilation and Sharing of Sexual Assault Incident Data – sexual assault statistics from 2011-2014 were compiled to supplement the information provided in the Annual Safety Report (Clery Act). Incident data was shared with the *Flat Hat*. Title IX Office posted the data online. (See Appendix D)
- Comprehensive Inventory of Existing Education and Prevention Efforts – information collected as part of the Office of Civil Rights’ comprehensive review of our practices; used to inform the education and prevention subcommittee’s work and recommendations (See Appendix E)
- Title IX Initiatives on-going – work in the Title IX Office continued even as the task force work was progressing. Related activities have been catalogued by the Title IX Coordinator and noted as complete effective July 1, 2015 (See Appendix F)

Campus Initiatives Supported by Members of the Task Force

- William & Mary's Women's Law Society Panel Discussion: The Law of Sexual Assault on Campus – task force members served as moderator and panelists
- Opening of the Haven – a newly created “safe space” in the Campus Center for anyone dealing with sexual assault or relationship violence and for those wanting to learn or serve as advocates
- Red Flag Campaign – a national relationship violence awareness initiative; a task force member coordinates W&M’s participation and serves on the national board of directors
- Screening of *The Hunting Ground* –the task force was a co-sponsor of the first-ever on-campus screening of this film which was featured as part of the W&M Global Film Festival; the task force prepared and distributed information about campus resources at the showings, counselors were on-hand for support, and nearly every member of the task force attended one of the two showings
- National College Health Assessment (NCHA) – a Health Promotion-sponsored assessment that includes selected data points related to sexual misconduct
- W&M Police Statement on Handling Sexual Assault Cases – new document affirming sensitive and appropriate response to students who report having been a victim of sexual violence
- W&M Police Officer Training – by August 2015, all W&M police officers will have received advanced training on campus sexual assault investigation, including trauma-informed interviewing techniques
- Website updates – both the Dean of Students Office and the Compliance Office made important updates to their websites; further work on the websites continues this summer
- Emergency Contact Information on ID Cards – the Campus Climate subcommittee worked with Auxiliary Services to update emergency contact information on student ID cards
- Bystander Intervention Initiative in the Mason School of Business – members of the task force are providing support as requested for a new school-based prevention initiative
- Policy Review and Updates with Reves Center for International Studies – the Title IX Office and Dean of Students have worked with the Reves Center to improve resources for students,

including by designating a confidential resource specifically for students participating in international programs and international students.

- Enhanced Support for the Haven – staff responsibilities are being realigned in the Dean of Students Office in order to provide more robust professional staff support to the Haven

RECOMMENDATIONS

Each of the four subcommittees submitted a comprehensive report summarizing the group's efforts as part of the task force and outlining recommendations related to their specific area of focus. However, a number of recommendations appear across subcommittee reports and/or were raised up by the task force as a whole for inclusion in our final report.

Overarching Recommendations

Centralize Oversight and Responsibility

Currently, the responsibility for addressing sexual violence on campus is distributed across multiple individuals, committees, units, and departments. Given the complexity of this issue and the level of coordination needed in order for us to be effective in our education, prevention, intervention, investigation, student support, and compliance efforts, W&M should clearly identify one individual/office as having centralized oversight responsibility. In order to comply with federal expectations as outlined in the Office of Civil Rights' April 24, 2015 Dear Colleague Letter, the appropriate university official is the Title IX Coordinator. (See Appendix G)

Create a Permanent Coordinating Committee

In order to support our institutional efforts to address the problem of sexual assault and harassment (education, prevention, investigation, adjudication, etc.) the task force recommends the creation of a coordinating committee, with membership to be determined. Much of our progress this year is a direct result of the task force's diverse composition and focused effort. Although the task force's work is now complete, regular coordination, communication, and planning in all these areas must continue in a sustained and focused way. Working to support the Title IX Coordinator/Office, this proposed coordinating committee would pick up where the task force's work has ended, advancing our efforts to address the issue of sexual assault and harassment through careful planning and coordination.

Enhance the Role of the Violence Education and Prevention Committee

The varied and broad nature of prevention work lends itself to committee involvement. State law also mandates this, by charging a committee on each campus in the Commonwealth of Virginia – the Committee on the Education and Prevention of Violence – with the responsibility of overseeing institutional efforts in this area. Sexual violence and Violence Against Women Act (VAWA) crimes are a subset of violence. The statute is not intended to prevent dedicated offices such as Health Promotion

from performing prevention and education activities. Rather the committee might serve to advise that and other key offices in their work, as well as catalog all education and prevention activities, identify gaps, and identify problem areas or opportunities for improvement. The committee could also help ensure delivery of “core content” such as the importance of consent.

Develop a 3-5 Year Strategic Plan for the Prevention of Sexual Assault and Harassment

As this task force report illustrates, there are many ways in which to focus the university’s efforts to prevent sexual assault and harassment. In order to further examine and prioritize this task force’s recommendations and to make thoughtful decisions about which ones to implement and on what timeline, we recommend that William & Mary develop a 3-5 year strategic plan. Further, we suggest that the proposed coordinating committee, working directly with the Title IX Coordinator, would be an appropriate group to charge with developing this plan.

Ensure Adequate Resources

It is critical that William & Mary invest the resources necessary (both personnel and operating) to accomplish our goals in preventing sexual assault and harassment. Several of the subcommittee reports point to areas of anticipated need, particularly as we (1) are experiencing increased caseloads due to more effective education and outreach and (2) recognize the need to expand education and prevention efforts to annually reach upperclassmen, graduate students, and special populations known to be at greater risk of sexual violence on our campus, such as sorority/fraternity members and LGBT students. An infusion of operating dollars is critical to supporting the task force’s recommended education and training efforts. In addition to expanding operating support, we recommend the addition of four new professional staff positions in the coming years, beyond those in existence as of June 30, 2015:

- A full-time Sexual Assault Educator/Prevention Specialist – position needed to ensure robust, effective and on-going education and prevention around the issues of sexual assault and harassment for all students, as well as faculty and staff; this position will allow us to expand and target our efforts to high risk populations, and to deliver educational programs that are specifically designed to meet the needs and experiences of graduate students and upperclassmen (not merely a repeat of the education new students receive)
- A second full-time Investigator for the Office of Compliance – position may be needed in the coming years to ensure timely processing of complaints and to provide for the appropriate separation of roles between the Dean of Students Office and the Office of Compliance/Title IX
- An additional position in the Dean of Students Office, if necessitated by an increased caseload, to support the professional staff tasked with implementing the university’s procedures for sexual misconduct adjudication. We must remain attentive to the amount of staff time required to ensure that all complaints are resolved promptly, expertly, and equitably.
- A second crime-prevention specialist in the W&M Police Department.

Subcommittee Recommendations

The following sections summarize the recommendations coming out of each of the four subcommittees of the President's Task Force on Preventing Sexual Assault and Harassment. Note that each recommendation is described in fuller detail in each subcommittee's comprehensive report as attached (Appendices H- K).

Campus Climate Subcommittee Recommendations

- Assess campus climate with respect to gender-based discrimination and violence regularly, to include a campus-wide survey every other year and targeted focus groups every three years
- Develop a pervasive community message that addresses gender-based discrimination and violence and asserts that such conduct will not be tolerated in our community
- Designate a single person or office with the centralized responsibility for the issue of gender-based discrimination and violence on campus
- Increase transparency about policies, procedures, and data related to gender-based violence and discrimination, as well as available resources to provide support when violence occurs
- Develop pro-active communication strategies
- Improve the user experience with regard to websites, brochures, posters, and other methods of campus-wide communication
- Ensure streamlined and timely communication with reporting and responding parties
- Increase administrative oversight of peer education and peer support programs
- Include a focus on gender and racial climate issues in the new COLL curriculum
- Increase support for and assessment of The Haven
- Include the Consensual Amorous Relationships Policy in the *Student Handbook*
- Strengthen sanctions on students found responsible for non-consensual sexual intercourse
- Develop and implement policies on reporting and adjudication for study abroad programs
- Extend the work of the task force to include gender climate issues among faculty and staff
- Mandate and expand training options for faculty and staff
- Develop/review and update policies and procedures related to faculty misconduct
- Impose strong interim measures for pending faculty/staff cases
- Develop educational programming targeting relevant subpopulations
- Implement mandatory programming for leaders of relevant subpopulations
- Consider delaying sorority and fraternity recruitment
- Review the current staffing structure for fraternity and sorority houses

Education and Prevention Subcommittee Recommendations

- Craft and adopt a student welfare value statement as part of the university's explicitly stated core values
- Align W&M practices with the new value statement

- Designate one entity to lead and coordinate all prevention, intervention, and postvention efforts
- Establish and maintain a strategic management plan/system for all efforts to address gender-based discrimination and violence
- Assess adequacy of resources to achieve established goals and tasks
- Provide highly visible, easily accessible resource materials
- Provide a unified and consistent approach to all related topics in education and prevention
- Ensure that the W&M website always includes up-to-date, comprehensive information
- Evaluate the effectiveness of existing and future educational programming
- Identify effectiveness measurement options and incorporate them into new programming
- Rework the current educational model, which places a heavy emphasis on first-year students
- Design first-year programming to be a year-long effort
- Consider a required first-year course as an addition to the new COLL curriculum
- Implement effective educational programming for returning students
- Broaden our educational approach to include cultural issues and intersect with and affect the state of sexual violence in the community
- Enhance targeted efforts towards high-risk populations
- Evaluate the time frame allowed for new students to join a sorority or fraternity
- Continue to consider criminal history and school disciplinary records as factors in admission
- Enhance crime prevention through environmental design efforts
- Educate students about the laws, legal process, and availability of support from W&M Police
- Increase reporting and the likelihood of consequences for violations of law and/or the Student Code of Conduct

Faculty/Staff Training Subcommittee Recommendations

- Shift oversight of faculty/staff training to the Office of Compliance and Policy
- Conduct mandatory campus-wide training every two years
- Create a more goal-oriented training that is specific to William & Mary
- Determine how mandatory training will be conducted in 2017
- Update the Title IX website to provide more direct navigation and easier access to information
- Sponsor a forum to explain to students what confidentiality means (in the context of Title IX issues) and how it relates to faculty and staff
- Include graduate/teaching assistants and other non-faculty academic partners in mandatory training
- Provide volunteers who work directly with students an opportunity to take the training
- Ensure the list of W&M employees is kept up-to-date
- Strongly encourage members of the Board of Visitors to complete the on-line or in-person training
- Develop and display posters that describe the process of making a report
- Consider providing in-person training or a webinar for employees at VIMS
- Provide additional training to faculty who will lead study abroad trips

Investigation and Adjudication Subcommittee Recommendation

- Determine the appropriate model to be used in the resolution of student sexual misconduct incidents
- Evaluate whether one model can be used to resolve all complaints of sexual harassment/misconduct (ie. complaints against students as well as complaints against faculty or staff)
- Provide sufficient personnel and other resources to ensure that we can conduct fair, prompt, and thorough Title IX complaint resolution while also attending to the core functions of the Offices of Student Conduct, the Dean of Students, and Compliance & Policy, including oversight of the Title IX prevention, education, and remediation efforts
- Require rigorous and sustained training of all members with responsibility within the system including investigators, advisors, hearing panel members, and appellate review authorities
- Compensate hearing panel members and advisors for their time and service with stipends, recognition leave, or other appropriate forms of compensation
- Designate a group of faculty and administrators to serve as designated advisors to the reporting party and respondent, respectively
- Modify the explanation of consent through further study of other models/explanations of consent in order to improve the current explanation offered in the Student Code of Conduct
- Modify the definition of incapacitation
- Require the decision-maker to consider state-of-mind for stalking allegations
- Explain how the types of misconduct covered by the policy relate to sexual assault and sexual violence as defined by law
- Clarify and expand situations in which other incidents of sexual misconduct may be considered
- Consider expanding the policy to cover (apply to) faculty and staff, in order to comply with the Clery Act
- Retain the current minimum sanction of two semesters' suspension for non-consensual sexual intercourse (an increase in minimum sanction that was approved and instituted in February 2015)
- Emphasize that the typical practice is to suspend for the duration of the other student's enrollment at W&M and that readmission will not occur until satisfactory completion of all secondary sanctions
- Modify the current panel composition to include a faculty member
- Define a hearing panel as consisting of two administrators and one faculty member with an optional *ex officio* student member who can bring a student perspective to the process
- Define/clarify the case administrator's role
- Modify the role of advisor to allow the advisor of the student's choice. Clarify and limit the role of advisor to speak on the student's behalf or participate in any hearing or meeting
- Explore retaining one or more trained appellate reviewers who will have the necessary time and experience and can serve as appellate officer on the Provost's behalf

- Make minor procedural additions and modifications, and add role of Title IX review team to comply with new Virginia law.
- Provide copies of the investigation summary report to the parties, with personally-identifiable information redacted to the extent required by law
- Require parties and advisors to sign a confidentiality agreement that prohibits unauthorized disclosure to third parties
- Ensure that the university's practices regarding transcript notations denote disciplinary actions taken or pending, or enrollment actions as a result of pending cases.

Appendix A: Memo to the Task Force from President W. Taylor Reveley, III (September 3, 2014)

Appendix B: Task Force Meeting Agendas and Minutes

Appendix C: Committee Member Education – Professional Development and Media Monitoring

Appendix D: Sexual Misconduct Incident Data for W&M, 2011-2014

Appendix E: Inventory of Existing Education and Prevention Efforts (as provided to OCR)

Appendix F: Summary of Title IX Initiatives Completed in 2014-15

Appendix G: U.S. Department of Education's April 24, 2015 Dear Colleague Letter and attachments

Appendix H: Subcommittee Report – Campus Climate

Appendix I: Subcommittee Report – Education & Prevention

Appendix J: Subcommittee Report – Faculty & Staff Training

Appendix K: Subcommittee Report – Investigation & Adjudication

Respectfully Submitted on June 30, 2015



Virginia M. Ambler, Vice President for Student Affairs, Task Force Chair

APPENDIX A

Memo to the Task Force from President W. Reveley, III
(September 3, 2014)



CHARTERED 1693

THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA
OFFICE OF THE PRESIDENT
P.O. BOX 8795
WILLIAMSBURG, VIRGINIA 23187-8795
757/221-1693, FAX 757/221-1259

MEMORANDUM
September 3, 2014

To: Members of the Task Force

From: Taylor Reveley

Task Force on Preventing Sexual Assault and Harassment

An attachment to this memo notes the members of the task force and your respective campus affiliations. I am extremely grateful to each of you for agreeing to serve. This group has very important work to do for William & Mary.

At the outset, we should be clear that William & Mary is fully committed to providing a safe and supportive environment for our students and all other members of the campus community. This is essential in meeting our ethical obligations to one another. It also recognizes that taking full advantage of the robust education we offer is feasible only when members of the campus feel safe and unharassed. Too, we must meet the federal government's legal mandates regarding sexual assault and harassment. In short, we have an ethical, educational, and legal obligation to provide an environment free of these evils.

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I ask the task force to undertake the responsibilities noted below:

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Sexual assault and harassment on campus pose important issues, ones faced by every college and university throughout the country. Your efforts will help ensure sure that William & Mary deals with them honestly, effectively, and fully.



TR

TR/cb

Attachment

Task Force Members

Ginger Ambler, Vice President for Student Affairs, Task Force Chair

Kiersten Boyce, Chief Compliance Officer and Title IX Coordinator

Deborah Cheesebro, Chief of Police

David Dessler, Associate Professor, Government (Faculty Assembly President)

David Gilbert, Associate Dean of Students and Director of Student Conduct

Chon Glover, Chief Diversity Officer

Alex Greenspan '15, Inter-Fraternity Council President

Susan Grover, Vice Provost for Academic and Faculty Affairs

Peel Hawthorne, Associate Director for Student Services and Senior Woman Administrator, Athletics

Donna Haygood-Jackson, Senior Assistant Dean of Students, Director of CARE Support Services, and Sexual Assault Response Coordinator

Rowan Lockwood, Associate Professor, Geology, Women's Network Executive Committee

Deborah Love, University Counsel (*advisory role*)

Anna Martin, Vice President for Administration

Marjorie Thomas, Dean of Students

Mallory Tucker '15, Student Assembly Undersecretary for Sexual Assault, Department of Health & Safety

Cynthia Ward, Professor, Law

Staff Assembly representative (TBD)

APPENDIX B

Task Force Meeting Agendas and Minutes

Task Force on Preventing Sexual Assault and Harassment

September 12, 2014

AGENDA

- I. Introductions
- II. The context in which we are working
 - Federal, state, legislative
 - The W&M context
- III. Where are we now: Recent Developments
- IV. Organizing Our Efforts
- V. Adjourn

Task Force on Preventing Sexual Assault and Harassment
September 12, 2014

Members Present:

Ginger Ambler, Chair
Anna Martin
Rowan Lockwood
Chon Glover
Dave Gilbert
Marjorie Thomas
Peel Hawthorne
Eric Garrison
Ed Schardein
Kiersten Boyce
Mallory Tucker
Donna Haygood-Jackson
David Dessler
Kelly Petrey
Alex Greenspan
Cynthia Ward
Carla Costello, Staff to the Task Force
Jodi Fisler, invited by the chair

Absent: Deb Love, Susan Grover

- I. Introductions and Welcome
 - a. Ambler opened the meeting at 4:30 p.m. Members of the task force introduced themselves.
 - b. Ambler noted that her administrative assistant would be in touch regarding future meeting times.

- II. The Context in which we are working
 - a. Ambler touched briefly on what the College has done over the years in regard to combatting sexual assault and harassment.

- She noted that it is a significant step in the right direction to have a task force devoted to this issue. Further, she added that the task force is stepping into a flowing river – the university will continue to innovate and strengthen our approach to sexual assault prevention and response, even as the committee does its work between now and June 30. We will not wait until June 30 to take needed action. Updates on activity will be shared with the committee and the campus community in real time.

b. Federal, state, legislative

- Boyce discussed the new Discrimination, Harassment and Retaliation Policy
- She also discussed federal and state legislation surrounding this issue, in particular Title IX and the creation of new legislation.
- New laws are focusing more on campus safety such as the Clery Act. Under the Clery Act, certain members of the W&M faculty and staff have been identified as Campus Security Officers. This act requires that these officers report any incidences of assault or violence against students, to be disclosed with other crime statistics.
- 2013-Violence Against Women Act-requires policies and procedures against dating and domestic violence and stalking, and disclosure of these policies and procedures.
- The proposed Campus Accountability and Safety Act would impose additional requirements of reporting obligations, the creation of one or more confidential advisors, mandatory training, and would also provide increased enforcement tools to the US Department of Education (up to 1% of annual operative budget per violation).
- Governor McAuliffe has established a Task Force to combat sexual violence and signed joint declaration with Attorney General and Virginia university presidents.

c. The W&M Context-Where we are and what is expected

- Organizational Chart-The task force reviewed the organization chart to obtain a better understanding of which offices and staff members are part of the sexual assault and harassment infrastructure.
 - Increased enforcement-Office of Civil Rights. W&M is in the midst of an investigation.
 - The investigation will be broad based. OCR will examine the climate, our adjudication process, and they will continue to monitor what we do.
 - Next week OCR will visit campus next meet to meet with student focus groups and review files from the Dean of Students' Office.
 - There is an expectation of immediate action.
 - Standard required by OCR for cases of sexual misconduct is clear and convincing evidence.
 - 3 crimes added: Dating and Domestic Violence and Stalking
 - Must apply for students, faculty and staff
 - Mandated training of all responsible employees
- d. Commonalities in OCR enforcement activities:
- Focus on policies and procedures
 - Training
 - Title IX coordinator duties & visibility
 - Campus Climate-surveys

III. Where are we now: Recent Developments

- a. Haygood-Jackson noted that the Sexual Assault Response Protocol is being made more inclusive. They are broadening the scope to make it clear that it applies in any situation involving sexual violence or harassment..
- b. Ambler discussed other recent actions at W&M
- Delegation at National Dialog on Sexual Assault (UVA)
 - Conference with TRADOC
 - On-Line Sexual Harassment Training Module for Faculty & Staff
 - Town Hall Meeting and Saturday Teach In after Sigma Chi email
 - Collaboration with Faculty Assembly Leadership and Student Affairs

- Gender Issues Coordinating Group: Focus on Campus Climate (no longer exists since the Task Force is now formed)
- Title IX Summit, Summer 2014

c. Thomas discussed the recent examination of the Sexual Misconduct Policy. This examination brought up questions such as:

- Are our policies appropriate as far as expectations, resources, what documents to go to?
- How are people held accountable? What is the impact of alcohol on these incidences?
- Is the process transparent?
- How does this policy incorporate how we respond to domestic violence, dating, stalking?
- What does it mean when you come forward-what does that mean as far as next steps?
- How are sanctions carried out?

*Revisions to the policy should be ready in the next few weeks.

d. Gilbert's office is looking into resources in the investigative process and adjudication process:

- Significant amount of time in investigating cases. Important to have a much more thorough investigation process. We must gather facts and not use hearing as the only venue. These investigations can result in a report of 75-100 pages and take up to 90 staff hours to complete.
- OCR expects them done in 60 days. They do not take as an excuse that we have x number of other cases open.
- Ambler noted that if we do what we want to do well, we will have more reports and that will further tap our resources.
- Boyce added that she currently has 13 open matters and 4 are student sexual harassment cases.

IV. Organizing Our Efforts

a. Haygood-Jackson-safe space in Campus Center-Students can go there if they are still questioning and are not ready to go through an official door, or to the counseling center. The safe space provides advocacy and education.

- Students are invested and have ownership
 - Tucker added that students have been looking for a space like this for quite some time
 - Important to note that there is no bottom line for students to come to the door “Gray Matters.” It’s ok that you aren’t quite sure what happened
- b. Care Support Services
- We don’t just stop dealing with students when the sanction is given. There is ongoing support and resources
- c. Outreach and Climate Actions
- Climate survey-Fisler looking at surveys from other institutions to try and determine what makes sense for our campus
- d. Garrison discussed education and prevention
- Students take modules online
 - Throughout orientation they have programs about alcohol and sexual assault
 - Healthful relationships. They offer 60 workshops about what makes a healthy and unhealthy relationship.
 - Various workshops, programs, and drop-in appointments are available. It is important that future programs are developmentally appropriate.

V. Ambler adjourned the meeting at 5:45 p.m. She said that the entire group would get together one more time before breaking into sub-groups.

*Materials will be added to the Blackboard site once created

Task Force on Preventing Sexual Assault and Harassment

October 3, 2014

AGENDA

- I. Introduction of New Members
- II. Update on the Blackboard Site (Ginger and Carla)
- III. Discussion: Building a Task Force Website
- IV. Subcommittee Assignments (Ginger)
- V. The Haven - Open House on October 24th (Donna)
- VI. The Work of our Student Representatives (Alex and Mallory)
- VII. Proposed Changes to the Student Handbook (Kiersten and Marjorie)
- VIII. National Sexual Misconduct Survey, ASCA Sponsored (Jodi)
- IX. Discussion: Next Steps for Subcommittees
- X. Next Meeting: Friday, November 7, 4:00 p.m. Swem Board Room
- XI. Adjourn

Sexual Assault and Prevention Task Force Meeting
October 3, 2014

Members Present:

Ginger Ambler
Kiersten Boyce
Deb Cheesebro
Carla Costello
Jodi Fisler
Eric Garrison
Alex Greenspan
Susan Grover
Peel Hawthorne
Donna Haygood-Jackson
Anna Martin
Jenny Putzi
Mallory Tucker

Absent:

David Dessler
Dave Gilbert
Chon Glover
Rowan Lockwood
Deb Love
Kelly Petrey
Marjorie Thomas
Cynthia Ward

- I. Introduction of New Members:
 - a. The meeting was called to order at 4:05 p.m.
 - b. Ambler welcomed two new members of the task force, Jodi Fisler and Jenny Putzi.

- II. Blackboard Site
 - a. Ambler and Costello provided an update on the Task Force Blackboard site.
 - b. Costello will send out weekly emails to the Task Force with links to news stories and other pertinent information added to the site.
 - c. Ambler invited Task Force members to submit articles and other items to Costello for inclusion on the site.

- III. Task Force Website
 - a. Ambler and Costello discussed their initial ideas about information the website should contain and asked for feedback and input from the task force.
 - b. Initial information includes;
 - i. Charges to the task force and subcommittees
 - ii. Task Force contact information
 - iii. Subcommittee information
 - iv. Links to other campus resources

- v. Links to external resources
- vi. Feedback form-anonymous submissions with a prompt if you want to talk further you can contact the task force
- vii. Frequently Asked Questions
- viii. Office Hours
- ix. Campus Events/Happenings

IV. Subcommittee Assignments/Next Steps for Subcommittees

- a. Ambler presented the list of subcommittees and was pleased that everyone was able to get their first choice.
- b. Ambler charged the Subcommittee chairs to convene their first meeting.
- c. Subcommittee information should be shared with Costello for posting on the Blackboard site and website.
- d. Members asked if they could recruit other employees to serve on the task force, both officially and as volunteers. Ambler said yes, she could officially appoint someone to a subcommittee.
- e. Procedures for subcommittees to gather data were also discussed. Focus groups and interviews are ok. However, Fislser noted that if there is any chance that the results may be shared outside William & Mary, we need Protection of Human Subjects approval to gather data. Fislser will submit on behalf of the Task Force.
- f. The question arose about the distinction between prevention and education and training for faculty and staff as separate subcommittee. Ambler noted that there would be a good amount of crossover among the subcommittees. It was determined that the recommendations of prevention and education would focus on determining the best method of delivering information; what is going to hit the heart of the issue; and why do they need to know this. It was determined that training for faculty and staff recommendations would focus on determining the people on campus who need to be trained; how do we get them to focus on this; do we mandate training and how do we regulate the training.

V. The Haven

- a. Haygood-Jackson provided an update on the opening of the Haven, our inclusive gathering space of support.
- b. The Haven will provide confidential education, advocacy and acceptance for anyone seeking guidance on relational abuse.
- c. The Haven will open on October 24. There will be a grand opening celebration from 3:00-6:00 p.m. The room is located in the Campus Center Atrium right behind the ID office.

VI. The Work of Student Representatives

- a. Alex and Mallory would like input from the Task Force on how students can serve the group better.
- b. Alex and Mallory are interested in holding office hours so students can come and speak directly to them as members of the task force.
- c. There was discussion about reaching out to leaders of student organizations as well, and collaborating with the Student Assembly for outreach
- d. It was stressed that students want to know William & Mary is doing something about the issue. Important to be transparent.

- VII. Proposed Changes to the Student Handbook
 - a. Boyce discussed the revision of the sexual misconduct policy and procedure in the Student Handbook.
 - b. The procedure we had was 3 years old and even though it was Title IX compliant, changes were needed.
 - c. Key revisions include:
 - i. Information gathering
 - ii. Administrative resolution
 - iii. Appeals process
 - iv. Equity in what is provided to both parties (advisors, for example)
 - d. The proposed changes will come out soon and there will be 3 weeks for the W&M community to provide feedback.

- VIII. National Sexual Misconduct Survey
 - a. Fislser discussed the sexual misconduct survey distributed to students on Monday, October 6.
 - b. The survey will be active for 6 weeks.
 - c. Responses are anonymous.

- IX. Next Meeting: November 7, 4:00 p.m. Swem Board Room

- X. Ambler adjourned the meeting at 5:38 p.m.

Task Force on Preventing Sexual Assault and Harassment

November 7, 2014

AGENDA

- I. UPDATES
 - a. The Haven's Successful Opening in October
 - b. Panel Discussion Next Tuesday, Nov 11, 12:45-1:45 p.m.
 - c. National Sexual Misconduct Survey About to Close
 - d. Comment Period Ends for Proposed Student Handbook Changes
 - e. Subcommittee Activity
- II. Guest: Fran Bradford, The Governor's Task Force on Campus Sexual Assault
- III. Report from those who attended the Attorney General's Oct 30-31 Summit
- IV. Coordinating the Work/Needs of Subcommittees
- V. Next Meeting: Friday, December 5, 4:00 p.m. Swem Board Room
- VI. Adjourn

Task Force on the Prevention of Sexual Assault and Harassment
Meeting
November 7, 2014

Members Present: Cynthia Ward, Donna H-G, Anna Martin, Mallory Tucker, Deb Love, Marjorie Thomas, Deb Cheesebro, Chon Glover, Ginger Ambler, Fran Bradford, Dave Gilbert, David Dessler, Kiersten Boyce, Rowan Lockwood, Jodi Fisler, Susan Grover, Alex Greenspan

I. Updates

- a. The Open House for the Haven on October 24 was very well attended (273 people). Another open house is being considered for next semester. Students have started to use it. Thirteen students are currently volunteering to staff the space. There is a lot of student interest in getting involved. New volunteers are being recruited to start in January. All volunteers—current and new—will be going through more extensive training through Avalon, which meets state requirements.
- b. Panel discussion next Tuesday—reprise of successful panel held last month at the law school. Has been promoted on the WMDigest, Student Happenings, student affairs listservs, Women’s Network listserv, other communication channels.
- c. Sexual misconduct survey closes on November 17. As of yesterday, just under 31% of students have responded.
- d. Comment period for proposed Handbook changes ends today. A few comments have come in, to which Ginger responded.
- e. Subcommittee activity
 - i. Adjudication & Investigation subcommittee has met. Will convene again soon to review comments to Handbook changes.
 - ii. Campus Climate subcommittee has met. Will review data from sexual misconduct survey at its next meeting.
 - iii. Education & Prevention committee has met. Will invite Jason Simms from Athletics to a future meeting.
 - iv. Faculty & Staff Training has met. Talked about online fac/staff training, other ways to provide training that might be better received. Has asked Babs Bengston and Helen Murphy to join the subcommittee.

II. Guest: Fran Bradford

- a. Fran provided an overview of federal and state efforts regarding campus sexual violence, then discussed the structure and activities of the Governor’s Task Force on Combating Campus Sexual Violence.

III. Report from Attorney General’s Summit

- a. Several task force members attended the summit on Oct. 30-31. Good information on interview techniques, Title IX advisory boards. VCU has a practice of notifying students when sexual assaults are reported in cases where the parties are both known (as opposed to timely warning emails

that are already issued). This may be something for us to consider. How can we be more transparent and educate the community about incidents while also protecting the privacy of those involved and being sensitive to the needs of victims?

- IV. Coordinating work of subcommittees
 - a. Plan to share information at the next meeting on information-gathering activities to ensure smooth coordination.
- V. In the interest of time, discussion on the coordination of training and education was tabled until the next meeting.
- VI. Ambler adjourned the meeting at 5:31 p.m.

Task Force on Preventing Sexual Assault and Harassment

December 5, 2014

AGENDA

- I. Welcome and Introduction of New Member
- II. Additional Students on Subcommittees
- III. Subcommittee Reports and Discussions
 - Campus Climate
 - Education & Prevention
 - Faculty & Staff Training
 - Investigation & Adjudication
- IV. Coordinating Sub-Committee Efforts for Spring
- V. FAQ Document
- VI. More Critical Questions? - Planning Ahead for Jan 16 mini-retreat
- VII. Other?
- VIII. Next Meeting: January 16, 1:30-4:30 Mini-Retreat. Location TBA
- IX. Adjourn

Task Force on Preventing Sexual Assault and Harassment
December 5, 2014

Members present: Chon Glover; Deb Cheesebro; Anna Martin; Peel Hawthorne; Deb Cheesebro; Deb Love; Carla Costello; Rowan Lockwood; David Dessler; Kiersten Boyce; Ginger Ambler; Mallory Tucker; Jodi Fisler; Alex Greenspan; Marjorie Thomas; Donna Haygood-Jackson; Eric Garrison; Susan Grover; Cynthia Ward

- I. Ambler welcomed task force members. Helis Sikk, doctoral student in American Studies is joining the Task Force. Helis was unable to attend this meeting.
- II. Additional Students on Subcommittees
 - a. Ambler asked subcommittee chairs about adding additional students and the process for adding them to subcommittees.
 - b. Prevention & Education, Training for Faculty & Staff and Campus Climate have additional students.
 - c. The Task Force felt that there are better ways to involve students and agreed not to add more students to the subcommittees.
 - d. Other opportunities include forums and focus groups to give students a voice in the process.
 - i. Students should guide and facilitate the forums and discussions.
 - ii. Focus on trust-building (between students and administration) as a primary goal for the discussion.
 - e. Ambler will make sure students who have expressed an interest are contacted and told there will be opportunities for participation in the spring semester and connect them with Alex and Mallory for brainstorming of ideas.
 - f. The Campus Climate Subcommittee will take the lead on organizing the first campus forum that focuses on trust. This may be another avenue for interested students to be involved in the spring.
- III. Subcommittee Reports
 - a. Campus Climate-currently analyzing the data from the student survey. Will continue to coordinate with other subcommittees to ensure there is no duplication of work.
 - b. Prevention & Education-meeting next week. They are interested in seeing what other institutions are doing and also looking at what they are doing for special populations.
 - c. Training for Faculty & Staff-Collecting peer data. Plans to rollout online training module very soon.
 - d. Investigation & Adjudication-proposals have been submitted for comment. They hope for a revision before break. It was suggested to add the Consensual Amorous Relationship policy to the student handbook. The subcommittee will look into this.

Coordinating Subcommittee Efforts for Spring

- e. Ambler encouraged subcommittees to continue to coordinate, especially as we plan for spring events such as forums, focus groups etc. She asked subcommittee chairs to coordinate with the Climate Subcommittee on the first forum.
- IV. FAQ Document
- a. Ambler is collecting questions for a FAQ Document. The Task Force will work on this at the January retreat.
- V. January Retreat Planning: Area of Focus
- a. What are realistic accomplishments to be reached by June?
 - b. What are areas of education needed on campus?
 - c. More discussion on the criminal side of sexual assault.
 - d. What are potential implications from legislation-General Assembly sessions?
 - e. Questions from the online training.
 - f. Information about the student survey.
- VI. Next meeting-mini-retreat, January 16 1:30-4:30
- VII. Meeting was adjourned at 5:35 p.m.

Task Force Mini-Retreat January 30, 2015

Deb Love, Eric Garrison, Ginger Ambler, Anna Martin, Dave Gilbert, Peel Hawthorne, Carla Costello, Kiersten Boyce, Helis Sikk, Jodi Fidler, Eric Garrison, Marjorie Thomas, Donna Haygood-Jackson, Rowan Lockwood, Susan Grover, Deb Cheesebro, Alex Greenspan, Jenny Putzi, Cynthia Ward, David Dessler, Mallory Tucker, Guest: Fran Bradford

Ginger welcomed everyone to the retreat and began the meeting at 11:15 a.m.

I. Governor's Task Force (Guest, Fran Bradford)

- The Governor's Task force is divided into 3 subcommittees
 - Prevention (Bradford is on this subcommittee)
 - This subcommittee is looking at strategies and programs; ways to expand the conversation by engaging students, faculty and staff on college campuses
 - Gender roles are important to the conversation
 - Need continued conversations and education-not just once and done
 - Response
 - Campus Sexual Assault Response Teams on college campuses
 - What are the federal rules and regulations? How do we address gaps in federal mandates?
 - How do we help survivors?
 - Equitable response for accused and accuser
 - What if anything should be on transcripts?
 -
 - Law Enforcement
 - Work on minimizing victim reporting; adjudication
 - Who responds?
 - Mandatory reporting?

These subcommittees are tasked with meeting 2 more times between now and the end of March or early April. They have been asked to come back to the full task force with a draft set of recommendations on moving forward. A presentation is set to be made to the Governor on June 1.

II. Virginia Legislature Updates (Bradford)

- Campus Sexual Assault-more bills than any other topic:
 - Mandatory Reporting
 - Lots of consternation about this; Governor is very interested in topic
 - Different proposals-24 hours to report once you know about an assault
 - Transcript Notation or Letter in file
 - Very likely to have a transcript bill of some-sort
 - MOU with local law enforcement
 - Certification Question for training and policies
 - Likely will sign something on certification

Other issues:

- Bradford noted that one of the biggest issues with Legislators is that they think colleges are trying to cover up sexual assault. There seems to be a disconnect between the legal process, external law enforcement, and what has to happen on college campuses.
- 80% of Virginians think there should be an element of mandatory reporting.
- The concern among Governor's task force members is that if the students know university personnel have to report directly to law enforcement, then many victims won't come forward..
- At the General Assembly meeting a recent UVA grad shared a very powerful story about being raped. She said she talked with a dean and faculty members who helped her get through it. She said that she wanted nothing to do with a legal process and if there was a requirement that assault be reported to law enforcement, she would not have come forward.

III. Survey Results

Jodi shared some preliminary survey results with the task force. The results are not yet public not have not been shared with the President.

Of note:

- This survey did not ask about the influence of alcohol, which plays a large role in sexual assaults.
- Recommendations will emerge as more analysis of the survey data continues
- We will need to make recommendations based on the results of the survey survey data-as we look at the data we will need to be proactive and make recommendations based on the results

IV. Climate Subcommittee Update

- Upcoming Forum: February 12 7:00 Tidewater A&B
Open Conversation with the Campus Community: Gender Based Discrimination and Violence at William & Mary
- The hope is that this conversation will start to bridge the trust gap between students and the task force

There will be Continued Conversations not limited to people to attend the forum.

V. Prevention & Education Subcommittee

- At their recent meetings they had a lot of discussion about focusing on special populations and graduate students-how do you bridge the gap? Need to consider this when developing training programs.
- Other conversations have focused on Causes related to education and prevention-climate, respect for others, if we are going to change the culture we have to focus on the climate-why do people have the attitudes-influences training

- Other questions/concerns they have considered:
 - Might RUSH be moved to second semester? Would that make a difference?
 - Is the all-male peer education program effective?
 - Need for more resources at the counseling center
 - Are faculty, staff and students familiar with the Consensual Amorous Relations Policy?
 - Do people understand what consent is?
 - What is going to have an impact and change the way you think?
 - What are some intersections that impact sexual assault? Alcohol? Hazing?

This was Anna's last Task force meeting. Chief Cheesebro will take over as the chair of the Prevention & Education subcommittee.

VI. Training for Faculty & Staff Subcommittee

- Email went out from the Provost explaining about training and the CSA assignment to faculty members
- President's email went out instructing faculty & staff about taking the training and that it is required of all employees
- There will be a posttest after the survey
- After 14 days, a reminder is sent to those who have not completed the training; then after 7 more days another reminder will be sent
- 2 in-person training sessions offered

VII. Investigation & Adjudication Subcommittee

- This subcommittee is currently evaluating policy and procedures
- The proposed revisions have been made to the sexual misconduct policy & procedure. Will be submitted to the President today.
- We are always looking for ways to continually improve our adjudication process including the improvement of the hearing process and having representatives for the accused and the victim.

Ambler thanked everyone for all their hard work and dedication to this task force and concluded the mini-retreat at 1:56 p.m.

Task Force on Preventing Sexual Assault and Harassment

February 13, 2015

AGENDA

- I. Review of "Open Conversation" Event
- II. Subcommittee Reports and Discussions
 - Campus Climate
 - Education & Prevention
 - Faculty & Staff Training
 - Investigation & Adjudication
- III. Next Meeting: March 13, 2015 - Campus Center Little Theater
- IV. Adjourn

Task Force on Preventing Sexual Assault and Harassment
February 13, 2015

Jodi Fidler, Rowan Lockwood, Marjorie Thomas, Peel Hawthorne, Chon Glover, Eric Garrison, Carla Costello, Ginger Ambler, Mallory Tucker, Ginger Ambler, Alex Greenspan, Deb Love, Kiersten Boyce, Dave Gilbert, Cynthia Ward

Ambler called the meeting to order at 3:40 p.m. She began by saying how proud she is of the work that the task force is doing and that the Board of Visitors is very supportive of our mission. She has received high praise for our efforts.

- I. Review of Open Conversation Event
 - There were around 100 attendees
 - Not oppositional stance, very positively received
 - Comments and suggestions were provided by students, faculty and staff who attended the open conversation. The Climate Subcommittee is compiling and analyzing the responses, which they will release at a later time.

- II. Subcommittee Reports and Discussions
 - A. Campus Climate
 - Student Focus Groups-starting on Sunday
 - Data will be analyzed as the focus groups go along
 - Data will enhance on the themes and help us dig into the data that came out of the survey

 - B. Education & Prevention-no update

 - C. Faculty & Staff training
 - Training update: 837 completed Title IX 209 completed the harassment training as of 2/12/15
 - 1,822 as of 2/12/15 had never started 181 started and completed at least 50%

 - D. Investigation & Adjudication
 - New sexual misconduct policy and procedure in effect
 - They are in the process of updating all documents with the new policy and procedures
 - Next, they will take a look at the process of training for boards and the hearing process

- Needs to be understood that when training a board, you are there to apply a policy to a set of facts; Whether you personally agree, is not relevant. They are not a policy making body
- When making decisions in cases, you are taking facts and applying them to policy and procedure
- Need to be more clear on definitions of consent, capacity and healthy relationships-language needs to be consistent across campus

III. Other updates

- The Hunting Ground-next Friday, shown at Kimball. Task Force members are invited.
- Ambler will send out more information

IV. Next meeting: March 13-Campus Center Little Theater

V. Ambler adjourned the meeting at 4:56 p.m.

Task Force on the Prevention of Sexual Assault & Harassment
April 3, 2015
Agenda

1. Reviewing the draft of a poster for campus wide distribution
2. Reviewing plans for climate survey data sharing and Jodi's draft report on the quantitative data
3. Updates from subcommittees
4. Review of plans for our remaining 3 months of work.

Task Force Meeting April 3, 2015

Ginger Ambler, Carla Costello, Chon Glover, Peel Hawthorne, Jodi Fisler, Susan Grover, Jenny Putzi, Helis Sikk, Alex Greenspan, Mallory Tucker, Rowan Lockwood, Eric Garrison, Deb Love, Marjorie Thomas, Cynthia Ward, Deb Cheesebro

Ginger welcomed everyone and began the meeting at 3:30 p.m.

I. Draft Poster for Campus Distribution

- Task Force members overall did not like the pink and blue
- Felt the poster was too hard to read
 - Writing was too small, needs to be more graphic oriented, less text
 - Too “professional”
- Need to send back to Creative Services
- Need to get information out as soon as possible, even if it is not in a poster format

The task force discussed options of getting information out. One suggestion was to utilize Sexual Violence Awareness month.

- Written material in water bottles
 - Distribute these water bottles at campus events including Take Back the Night, the Nancy Donoval speaking event, Town Hall to discuss survey results
 - The Prevention & Education Committee will take the lead on this

II. Climate Survey Data Sharing

- Meeting on April 6 with President Reveley, Deans, VPs to share survey results
- Results will be distributed to the campus community the week of April 13

III. Subcommittee Updates

- Climate
 - Faculty Staff Focus groups are completed
 - Learned that people are very ill informed
 - A lot of misunderstandings about resources and confidentiality
- Training
 - 2340 completed online, in person and through 2 computer training sessions for facilities management
 - 2495 totally completed
 - 97 people have not completed
 - 389 people completed in less than 30 minutes
 - Also 5 minutes was the record for completion
- Education/Prevention
 - They continue to discuss issues and follow up with what other colleges are doing
 - They are working on improving effectiveness

- Informed the task force that the School of Business is conducting bystander intervention training and they will work with the Business School to fill 4 open slots
- Deb also shared a Harassment by computer policy through the Police Department

- Adjudication/Investigation
 - Looking at current policies
 - Examining the efficiency of the investigation and adjudication process
 - Examining the structure of hearing process

Ginger closed the meeting by asking subcommittees to bring to the May 1 meeting suggested recommendations and accomplishments for the year to be included in the final report.

The next meeting is May 1 at 3:30 p.m. in the Campus Center Little Theater.

Task Force on Preventing Sexual Assault and Harassment

May 8, 2015

AGENDA

- I. Reviewing the draft of a poster for campus wide distribution
- II. Update on climate survey data sharing
- III. DRAFT recommendations from the subcommittees
 - Faculty and Staff Training
 - Education and Prevention
 - Investigation and Adjudication
 - Campus Climate
- IV. Timeline through June 30
- V. Adjourn

**Task Force Meeting
May 8, 2015**

In attendance:

Ginger Ambler, Carla Costello, Chon Glover, Jodi Fisler, Helis Sikk, Alex Greenspan, Mallory Tucker, Dave Gilbert, Eric Garrison, Deb Love, Deb Cheesebro, Kiersten Boyce, Jordan Taffet

Ginger welcomed everyone to the last official meeting of the Task Force. The meeting began at 3:35 p.m.

- I. Draft poster for Distribution
 - Poster for campus distribution was approved with a few minor edits to be made by Creative Services

- II. Update on Climate Survey Data Sharing
 - Ambler discussed reasons for not sharing the climate survey data this semester
 - Data from the survey will be included as part of the overall Task Force report
 - A Town Hall meeting is planned for September to discuss the results

- III. Draft Recommendations from Subcommittees
 - Each subcommittee highlighted main recommendations from their work this semester
 - Committee chairs will submit recommendations to Ambler for inclusion in the Task Force Report

- IV. Timeline through June 30
 - Ambler noted that draft reports would circulate to the Task Force and the final report will be submitted to President Reveley by June 30

Ambler thanked everyone for their hard work on the Task Force and adjourned the meeting at 5:15 p.m.

APPENDIX C

Committee Member Education – Professional Development and Media Monitoring

Committee Member Education

Members of the task force recognized how essential it was for us to be as educated as possible around the complex issues facing colleges and universities in the area of sexual assault and harassment. The following is a listing of educational programs attended by one or more task force members this year.

Professional Development Activities

Webinar – Conducting Campus Student Sexual Assault Investigations

Webinar – Looking Beyond Orientation: New Approaches to Sexual Assault Prevention Programming

Department of Criminal Justice Services Campus Safety and Violence Prevention Forum

Webinar – Conducting a Legally Fair Investigation

Webinar – Disabled Student Participation in Extra Curricular Activities

Sexual Harassment/Assault Response & Prevention Program at TRADOC (U.S. Army, Ft. Eustis)

Sexual Consent Research and Praxis: Hopeful Possibilities for Pernicious Problems (ACPA Annual Conference Presentation)

Sexual Coercion and Consent: Gender, Race, Class, and Socialization Influences (ACPA Annual Conference Presentation)

The Influence of Campus Climate on Sexual Assault Among Queer and Trans-spectrum Students (ACPA Annual Conference Presentation)

Webinar – Title IX Webinar Series, Part I: How to Be Prepared: Hot Topics and Difficult Issues

Office of the Attorney General (VA) Campus Sexual Violence Summit

An Insiders' guide to the Violence Against Women Act Negotiated Rulemaking; Implementing Chances to the Clery Act" (NACUA Annual Meeting Presentation)

NACUA Annual Meeting Presentation: "Sexual Misconduct on Campus: New Federal Guidance

Senior Student Affairs Officers Day-long Summit -- "Practical Strategies for Meeting Your Compliance Obligations Regarding Campus Gender-Based Violence" (NASPA National Conference Presentation)

National Title IX Conference at Dartmouth (Summer 2014)

Bystander Education: One Size Does Not Fit All (ACHA Annual Conference Presentation)

Reducing Risk Around Alcohol, Consent, and Sex: Evidence of an Effective Educational Model (ACHA Annual Conference Presentation)

Webinar – The Intersection of Title IX & LGBTQ: Compliance Considerations

Media Monitoring

As a task force, we also recognized the need to understand how the issue of campus sexual violence was being discussed at the national, state, and local levels. A weekly email was sent to members of the task force with links to relevant media coverage. Those links were also posted simultaneously to the task force website under the heading “Sexual Assault and Harassment in the News.” Our goal was to increase awareness and knowledge for ourselves and the W&M community so that campus-wide conversations might be richer and more nuanced. Stories on the website are categorized by month (though there is a separate heading for the flurry of media activity following the now-discredited *Rolling Stone* article about an alleged assault at the University of Virginia).

(See the following pages printed from the task force website)



Sexual Assault and Harassment in the News

- [Colleges Turning to Judges in Campus Sexual Assault Cases](#) - June 30, 2015, *Inside Higher Ed*
- [A Promising New Approach to Fighting Campus Sexual Assault](#) - June 29, 2015, *NYMag.com*
- [Spurred by Sex-Assault Concerns Law Makers Add Disciplinary Infractions to Transcripts](#) - June 26, 2015, *The Chronicle of Higher Education*
- [A Response to the Washington Post on Sexual Assault](#) - June 25, 2015, *The Weekly Standard*
- [Survey: 22% of Female Students at Michigan Sexually Assaulted](#)- June 25, 2015, *Inside Higher Ed*
- [McCaskill Tells Campus Police to Investigate Assaults More Quickly](#) - June 23, 2015, *Inside Higher Ed*
- [The High Cost of Sexual Assaults on College Campuses](#) - June 23, 2015, *Nonprofit Quarterly*
- [Greek Councils, Administrators Clash Over How to Sanction Fraternities](#) - June 23, 2015, *Inside Higher Ed*
- [University Investigated over Claim that Campus Security Physically Restrained Alleged Sexual Assault Victim](#) - June 21, 2015, *Huffington Post*
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- [Dishonor Code: Rape, Reputation and Repercussion at UVA](#) - November 23, 2014, *Quiteirregularwordpress.com*
- [Graham, Harrington Cases Put Va. Campus Assault Policies Under the Microscope](#) - November 22, 2014, *Times Dispatch*
- [Important UVA Messages Regarding Sexual Assault](#) - November 22, 2014, *news.virginia.edu*
- [A Rape on Campus: A Brutal Assault and Struggle for Justice at UVA](#) - November 19, 2014, *Rolling Stone*

APPENDIX D

Sexual Misconduct Incident Data for W&M 2011-2014

STUDENT TITLE IX REPORTS: 2011 – 2014

This data is for three academic years: 2011-12, 2012-13, and 2013-14. A report included in a year indicates that the report was made during that year; the incident reported may have occurred during a prior year.

This data represents reports of sexual harassment, including non-consensual sexual contact and non-consensual sexual intercourse, which may be called sexual assault. These terms are defined in W&M's policies, specifically its [Discrimination, Harassment, and Retaliation Policy](#) (which defines sexual harassment and explains that sexual violence is a form of sexual harassment) and its [Student Sexual Harassment and Misconduct, Dating and Domestic Violence and Stalking Policy](#) (which defines the different types of sexual misconduct, including non-consensual sexual intercourse).

This data includes reports made by or on behalf of W&M students, about sexual harassment experienced by a W&M student.

“Reports” includes complaints, reports, or disclosures made to W&M Police, the Dean of Students, the Student Counseling Center, the Student Health Center, the Office of Compliance & Policy (Title IX office). It also includes complaints, reports, or disclosures brought to the attention of these offices by a faculty member, administrator, or other individual. It includes reports made confidentially and anonymously – reports made by students who did not want to disclose details and/or did not want any action taken on the report.

This data is different from the data disclosed in W&M's [Annual Campus Security and Fire Safety Report](#). This is because that Report must comply with the Clery Act, a federal law that specifies exactly what data must be disclosed. The Clery Act data is different from this data in several ways, two of which are particularly important to understand:

- (1) The Clery Act data is only about [specific crimes](#). These crimes include certain sex offenses, but the definitions we must use for Clery Act reporting are different than our policy definitions of sexual misconduct. More importantly, many of the reports included in this data relate to non-criminal sexual harassment. Sexual harassment is not reported under the Clery Act.
- (2) The Clery Act data is only about crimes (included alleged or suspected crimes and attempted crimes) that occurred on campus or certain other specified property. Many of the reports included in this data occurred off campus and so are not disclosed in the Annual Campus Security and Fire Safety Report.

More detail about the Clery Act and its reporting requirements is available on [W&M's compliance website](#).

The data shows that some reports did not result in investigation or adjudication, for one or more of the following reasons:

- the victim/reporting party did not want investigation or adjudication,¹
- the report did not include necessary identifying information such as names,
- the alleged perpetrator was not a W&M student (or staff or faculty) and so not subject to university discipline, or
- the report was recanted or withdrawn.

This data was compiled manually by William & Mary's Dean of Students Office and Office of Compliance & Policy (Title IX), and is subject to revision.

¹ Section V of the Policy on Student Sexual Harassment and Misconduct, Dating and Domestic Violence, and Stalking specifies how the university handles this type of report:

Typically, the university will not begin an internal administrative investigation or make a referral to law enforcement without the consent or involvement of the reporting party, but the university must consider its obligation to other students and the campus community. The Dean of Students and Title IX Coordinator will decide whether an investigation or referral is required after evaluating the risk of the alleged offender harming other members of the campus community and the likelihood of the university being able to proceed forward without the active participation of the reporting party (if applicable), by considering:

- The nature of the alleged misconduct, including whether it involved a weapon or use of physical force;
- The existence of evidence of predatory behavior;
- Any prior credible reports of misconduct by the alleged perpetrator; and
- The existence of evidence other than the reporting party's testimony, such as physical evidence, recordings, documentary evidence, written statements provided by the reporting party.

2011-12	Sexual Harassment	Non-Consensual Sexual Contact	Non-Consensual Intercourse	TOTAL
Reported	4	2	11	17
Investigated	3	1	1	5
Adjudicated – student responsible for policy violation	3	1	1	5
Adjudicated – student not responsible for policy violation	0	0	0	0
Permanent Resignation prior to Adjudication	0	0	0	0
Probation	2	0	0	2
Suspension ²	0	1	1	2
Other	1	0	0	1

2012-13	Sexual Harassment	Non-Consensual Sexual Contact	Non-Consensual Intercourse ³	TOTAL
Reported	7	8	15	30
Investigated	3	5	3	11
Adjudicated – student responsible for policy violation	3	5	2	10
Adjudicated – student not responsible for policy violation	0	0	0	0
Permanent Resignation prior to Adjudication	0	0	1	1
Probation	1	4	1	6
Suspension ²	2	0	1	3
Other	0	1	0	1

2013-14	Sexual Harassment	Non-Consensual Sexual Contact	Non-Consensual Intercourse	TOTAL
Reported	9	3	13	25
Investigated ⁴	2	1	5	8
Adjudicated – student responsible for policy violation	1	1	3	5
Adjudicated – student not responsible for policy violation	0	0	2	2
Permanent Resignation prior to Adjudication	0	0	0	0
Probation	1	1	0	2
Suspension ²	0	0	3	3
Other	0	0	0	0

² Suspensions are typically multi-semester and designed to allow the reporting party/victim to graduate prior to the student found responsible returning to campus.

³ One case was investigated, but charges did not result in Title IX allegation being pursued; however, respondent was found responsible for other student conduct charges and was issued probation.

⁴ One case was investigated, but violation charges were not brought because of lack of evidence.

APPENDIX E

Inventory of Existing Education and Prevention Efforts (as provided to OCR)



WILLIAM & MARY

CHARTERED 1693

Title IX Compliance at W&M Summary of Actions May-November 2014

This list summarizes actions taken to enhance W&M's prevention and response efforts related to sexual harassment, including sexual assault. Actions marked with an asterisk are currently in progress.

Policy Actions. *Policies are necessary for both prevention and remedy of sexual harassment. By defining institutional expectations, they are the foundation of prevention; by establishing prohibited conduct, they permit enforcement and remediation.*

- New [Discrimination, Harassment and Retaliation Policy](#), subsuming and improving current sexual harassment policy and establishing first consolidated, fully-articulated expression of university policy on discrimination and harassment. This policy was developed through an inclusive campus notice-and-comment process.
- Improvements to Sexual Misconduct Policy, including definitions of consent and relationship of intoxication and expansion to include Violence Against Women Act-mandated crimes of domestic and dating violence and stalking.*
- Improvements to Sexual Misconduct Procedure, used to investigate and adjudicate allegations of student sexual harassment (including sexual assault).*

Education and Awareness Actions. *These actions include both policy promotion efforts as well as education and outreach on issues such as safe alcohol use and healthy relationships.*

- Dissemination of [Discrimination Resources Poster](#), effectively communicating reporting options and W&M offices and entities providing services ranging from disability accommodation to criminal investigations.
- Developed pamphlets for students describing campus procedures for resolving sexual harassment allegations.
- Developing flyers providing quick information on options and resources for survivors of sexual assault, harassment, or VAWA crimes.*
- Increased participation by Title IX Coordinator and Dean of Students Office representatives in student orientation programming.
- Increased participation by Title IX Coordinator in faculty orientation programming, including providing training on reporting obligations. Training provided to faculty on both main and VIMS campuses.
- Improved dissemination of information regarding relevant policies and reporting obligations to new employees.
- Met with W&M Police and Commonwealth's Attorney to discuss Sexual Assault Response Team protocols.
- Participated in panels on sexual assault law sponsored by W&M Law School students.
- Presented on Title IX to Student Affairs staff, including graduate assistants.

- Presented on Title IX to Panhellenic Counsel.

Training Actions. *Many of the actions listed under “Education and Awareness” serve some training purpose. The items listed under this heading focus on actions designed to create or increase skills or technical knowledge.*

- Purchased training for faculty and staff on Clery Act and Title IX.
- Purchased training for staff on drafting a Title IX/SaVE Act Notice of Determination
- Developed pamphlets providing step-by-step protocol for faculty and staff responding to student disclose of sexual assault.
- Developing improved training for Sexual Misconduct Hearing Board members and advisors.*
- Attended workshop on trauma-informed sexual assault investigation sponsored by the Office of the Attorney General.
- Attended Campus Sexual Violence Summit sponsored by the Office of the Attorney General.

Investigation and Remediation Actions. *The improvements to the sexual misconduct procedure, described above, are designed to improve investigation and resolution of complaints. These are additional steps:*

- Contracted for incident management system, to provide technological solution for logging, tracking, and case management of Title IX reports (as well as other discrimination and harassment complaints).* System will be implemented...
- Established a dedicated physical space, located in the Campus Center but distinct from the Dean of Students Office space, for Care Support Services, a rebranded function equipped to help survivors of sexual assault understand their options and obtain campus support. The Haven opened on October 24, 2014.
- Created “rights and responsibilities” handouts and web-based informational resources for students involved in Title IX investigations.
- Providing trained administrative advisors to both (all) student parties in Title IX investigations.*
- Improved no-contact orders and other documents relating to interim steps.
- Modifying administrative resolution option to ensure that occurs only with agreement of reporting party. (This modification will be reflected in the updated Sexual Harassment and Misconduct Procedure.)

Outreach and Climate Actions.

- Convened a two-day summit meeting including various members of senior administration as well as subject-matter experts. The group reviewed current OCR guidance and our current policies, protocols, assistance for reporting party and respondent, investigation and adjudication procedures, follow up with victims, and messaging/educational efforts with the student body.
- Working group convened to review climate survey instruments and develop recommendations for W&M survey activity.
- Presidential message to campus community about sexual harassment and sexual assault and establishment of Task Force (September 4, 2014).
- Establishment and convening Task Force on Preventing Sexual Assault and Harassment to conduct a climate survey and make findings and recommendations by June, 2015, regarding prevention and education; training; and investigation and adjudication practices.
- Disseminated National Sexual Misconduct Campus Climate Survey. Report from eduOutcomes pending.

APPENDIX F

Summary of Title IX Initiatives Completed in 2014-15



WILLIAM & MARY

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Title IX Compliance at W&M Summary of Actions 2015

This list summarizes actions taken to enhance W&M's prevention and response efforts related to sexual assault and harassment. Actions marked with an asterisk are currently in progress. This list will be current as of July 1, 2015.

Policy Actions. *Policies are necessary for both prevention and remedy of sexual harassment. By defining institutional expectations, they are the foundation of prevention; by establishing prohibited conduct, they permit enforcement and remediation.*

- Improvements to Sexual Misconduct Policy, including definitions of consent and relationship of intoxication and expansion to include Violence Against Women Act-mandated crimes of domestic and dating violence and stalking.
- Significant revisions to the Sexual Misconduct Procedure, used to investigate and adjudicate allegations of student sexual harassment (including sexual assault), to ensure Title IX compliance.
- Further improvements to Discrimination, Harassment, and Retaliation Policy, including inclusion of consensual amorous relationship section, and Sexual Misconduct Policy, developed and in finalization phase.*

Education and Awareness Actions. *These actions include both policy promotion efforts as well as educational programming.*

- Achieved 99% completion rate for mandated Title IX/VAWA training, required of all faculty and staff.
- Title IX Coordinator provided two sessions of live training for faculty and staff regarding Title IX and VAWA including reporting obligations.
- Developed flyers providing quick information on options and resources for survivors of sexual assault, harassment, or VAWA crimes. Currently distributing on campus.*
- Enhanced awareness programming planned for 2015 new student orientation.*

Training Actions. *Many of the actions listed under "Education and Awareness" serve some training purpose. The items listed under this heading focus on actions designed to create or increase skills or technical knowledge.*

- Provided expanded training curriculum and materials for Sexual Misconduct Hearing Board members and advisors.
- Staff attended specific trainings including Virginia Department of Criminal Justice Services three-day training on Clery and Title IX and ATIXA advanced Title IX training.

Investigation and Remediation Actions. *The improvements to the sexual misconduct procedure, described above, are designed to improve investigation and resolution of complaints. These are additional steps:*

- Hired additional investigator.
- Ad-hoc team developed proposal to modify procedure to address reports/complaints of faculty sexual harassment and misconduct.
- Allowed parties to use advisors of their choice, including attorneys, and to bring advisors to interviews and other meetings.
- Implemented new appeals model, including direct review by Provost of all appeals and equitable right of parties to review and respond to each other's appeal.

Outreach and Climate Actions.

- Title IX Coordinator and other senior administrators provided open forum for faculty and staff to engage on training and mandatory reporting.
- President's Task Force on Preventing Sexual Assault and Harassment completed recommendations.
- Task Force Climate Subcommittee conducted focus group activities and campus survey. See separate report.
- Title IX statistics (e.g., number of reports, non-individualized adjudication outcomes) assembled and disclosed online.

APPENDIX G

U.S. Department of Education's April 24, 2015 Dear
Colleague Letter and attachments



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 24, 2015

Dear Colleague:

I write to remind you that all school districts, colleges, and universities receiving Federal financial assistance must designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities under Title IX of the Education Amendments of 1972 (Title IX), which prohibits sex discrimination in education programs and activities.¹ These designated employees are generally referred to as Title IX coordinators.

Your Title IX coordinator plays an essential role in helping you ensure that every person affected by the operations of your educational institution—including students, their parents or guardians, employees, and applicants for admission and employment—is aware of the legal rights Title IX affords and that your institution and its officials comply with their legal obligations under Title IX. To be effective, a Title IX coordinator must have the full support of your institution. It is therefore critical that all institutions provide their Title IX coordinators with the appropriate authority and support necessary for them to carry out their duties and use their expertise to help their institutions comply with Title IX.

The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX for institutions that receive funds from the Department (recipients).² In our enforcement work, OCR has found that some of the most egregious and harmful Title IX violations occur when a recipient fails to designate a Title IX coordinator or when a Title IX coordinator has not been sufficiently trained or given the appropriate level of authority to oversee the recipient's compliance with Title IX. By contrast, OCR has found that an effective Title IX coordinator often helps a recipient provide equal educational opportunities to all students.

OCR has previously issued guidance documents that include discussions of the responsibilities of a Title IX coordinator, and those documents remain in full force. This letter incorporates that existing OCR guidance on Title IX coordinators and provides additional clarification and recommendations

¹ 34 C.F.R. § 106.8(a). Although Title IX applies to any recipient that offers education programs or activities, this letter focuses on Title IX coordinators designated by local educational agencies, schools, colleges, and universities.

² 20 U.S.C. §§ 1681–1688. The Department of Justice shares enforcement authority over Title IX with OCR.

as appropriate. This letter outlines the factors a recipient should consider when designating a Title IX coordinator, then describes the Title IX coordinator’s responsibilities and authority. Next, this letter reminds recipients of the importance of supporting Title IX coordinators by ensuring that the coordinators are visible in their school communities and have the appropriate training.

Also attached is a letter directed to Title IX coordinators that provides more information about their responsibilities and a Title IX resource guide. The resource guide includes an overview of the scope of Title IX, a discussion about Title IX’s administrative requirements, as well as a discussion of other key Title IX issues and references to Federal resources. The discussion of each Title IX issue includes recommended best practices for the Title IX coordinator to help your institution meet its obligations under Title IX. The resource guide also explains your institution’s obligation to report information to the Department that could be relevant to Title IX. The enclosed letter to Title IX coordinators and the resource guide may be useful for you to understand your institution’s obligations under Title IX.

Designation of a Title IX Coordinator

Educational institutions that receive Federal financial assistance are prohibited under Title IX from subjecting any person to discrimination on the basis of sex. Title IX authorizes the Department of Education to issue regulations to effectuate Title IX.³ Under those regulations, a recipient must designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX and the Department’s implementing regulations.⁴ This position may not be left vacant; a recipient must have at least one person designated and actually serving as the Title IX coordinator at all times.

In deciding to which senior school official the Title IX coordinator should report and what other functions (if any) that person should perform, recipients are urged to consider the following:⁵

A. Independence

The Title IX coordinator’s role should be independent to avoid any potential conflicts of interest and the Title IX coordinator should report directly to the recipient’s senior leadership, such as the district superintendent or the college or university president. Granting the Title IX coordinator this

³ The Department’s Title IX regulations, 34 C.F.R. Part 106, are available at <http://www.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html>.

⁴ 34 C.F.R. § 106.8(a).

⁵ Many of the principles in this document also apply generally to employees required to be designated to coordinate compliance with other civil rights laws enforced by OCR against educational institutions, such as Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; 34 C.F.R. § 104.7(a), and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131–12134; 28 C.F.R. § 35.107(a).

independence also ensures that senior school officials are fully informed of any Title IX issues that arise and that the Title IX coordinator has the appropriate authority, both formal and informal, to effectively coordinate the recipient's compliance with Title IX. Title IX does not categorically exclude particular employees from serving as Title IX coordinators. However, when designating a Title IX coordinator, a recipient should be careful to avoid designating an employee whose other job responsibilities may create a conflict of interest. For example, designating a disciplinary board member, general counsel, dean of students, superintendent, principal, or athletics director as the Title IX coordinator may pose a conflict of interest.

B. Full-Time Title IX Coordinator

Designating a full-time Title IX coordinator will minimize the risk of a conflict of interest and in many cases ensure sufficient time is available to perform all the role's responsibilities. If a recipient designates one employee to coordinate the recipient's compliance with Title IX and other related laws, it is critical that the employee has the qualifications, training, authority, and time to address all complaints throughout the institution, including those raising Title IX issues.

C. Multiple Coordinators

Although not required by Title IX, it may be a good practice for some recipients, particularly larger school districts, colleges, and universities, to designate multiple Title IX coordinators. For example, some recipients have found that designating a Title IX coordinator for each building, school, or campus provides students and staff with more familiarity with the Title IX coordinator. This familiarity may result in more effective training of the school community on their rights and obligations under Title IX and improved reporting of incidents under Title IX. A recipient that designates multiple coordinators should designate one lead Title IX coordinator who has ultimate oversight responsibility. A recipient should encourage all of its Title IX coordinators to work together to ensure consistent enforcement of its policies and Title IX.

Responsibilities and Authority of a Title IX Coordinator

The Title IX coordinator's primary responsibility is to coordinate the recipient's compliance with Title IX, including the recipient's grievance procedures for resolving Title IX complaints. Therefore, the Title IX coordinator must have the authority necessary to fulfill this coordination responsibility. The recipient must inform the Title IX coordinator of all reports and complaints raising Title IX issues, even if the complaint was initially filed with another individual or office or the investigation will be conducted by another individual or office. The Title IX coordinator is responsible for coordinating the recipient's responses to all complaints involving possible sex discrimination. This responsibility includes monitoring outcomes, identifying and addressing any patterns, and assessing effects on the campus climate. Such coordination can help the recipient avoid Title IX violations, particularly violations involving sexual harassment and violence, by preventing incidents

from recurring or becoming systemic problems that affect the wider school community. Title IX does not specify who should determine the outcome of Title IX complaints or the actions the school will take in response to such complaints. The Title IX coordinator could play this role, provided there are no conflicts of interest, but does not have to.

The Title IX coordinator must have knowledge of the recipient's policies and procedures on sex discrimination and should be involved in the drafting and revision of such policies and procedures to help ensure that they comply with the requirements of Title IX. The Title IX coordinator should also coordinate the collection and analysis of information from an annual climate survey if, as OCR recommends, the school conducts such a survey. In addition, a recipient should provide Title IX coordinators with access to information regarding enrollment in particular subject areas, participation in athletics, administration of school discipline, and incidents of sex-based harassment. Granting Title IX coordinators the appropriate authority will allow them to identify and proactively address issues related to possible sex discrimination as they arise.

Title IX makes it unlawful to retaliate against individuals—including Title IX coordinators—not just when they file a complaint alleging a violation of Title IX, but also when they participate in a Title IX investigation, hearing, or proceeding, or advocate for others' Title IX rights.⁶ Title IX's broad anti-retaliation provision protects Title IX coordinators from discrimination, intimidation, threats, and coercion for the purpose of interfering with the performance of their job responsibilities. A recipient, therefore, must not interfere with the Title IX coordinator's participation in complaint investigations and monitoring of the recipient's efforts to comply with and carry out its responsibilities under Title IX. Rather, a recipient should encourage its Title IX coordinator to help it comply with Title IX and promote gender equity in education.

Support for Title IX Coordinators

Title IX coordinators must have the full support of their institutions to be able to effectively coordinate the recipient's compliance with Title IX. Such support includes making the role of the Title IX coordinator visible in the school community and ensuring that the Title IX coordinator is sufficiently knowledgeable about Title IX and the recipient's policies and procedures. Because educational institutions vary in size and educational level, there are a variety of ways in which recipients can ensure that their Title IX coordinators have community-wide visibility and comprehensive knowledge and training.

⁶ 34 C.F.R. § 106.71 (incorporating by reference 34 C.F.R. § 100.7(e)).

A. Visibility of Title IX Coordinators

Under the Department’s Title IX regulations, a recipient has specific obligations to make the role of its Title IX coordinator visible to the school community. A recipient must post a notice of nondiscrimination stating that it does not discriminate on the basis of sex and that questions regarding Title IX may be referred to the recipient’s Title IX coordinator or to OCR. The notice must be included in any bulletins, announcements, publications, catalogs, application forms, or recruitment materials distributed to the school community, including all applicants for admission and employment, students and parents or guardians of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient.⁷

In addition, the recipient must always notify students and employees of the name, office address, telephone number, and email address of the Title IX coordinator, including in its notice of nondiscrimination.⁸ Because it may be unduly burdensome for a recipient to republish printed materials that include the Title IX coordinator’s name and individual information each time a person leaves the Title IX coordinator position, a recipient may identify its coordinator only through a position title in printed materials and may provide an email address established for the position of the Title IX coordinator, such as TitleIXCoordinator@school.edu, so long as the email is immediately redirected to the employee serving as the Title IX coordinator. However, the recipient’s website must reflect complete and current information about the Title IX coordinator.

Recipients with more than one Title IX coordinator must notify students and employees of the lead Title IX coordinator’s contact information in its notice of nondiscrimination, and should make available the contact information for its other Title IX coordinators as well. In doing so, recipients should include any additional information that would help students and employees identify which Title IX coordinator to contact, such as each Title IX coordinator’s specific geographic region (*e.g.*, a particular elementary school or part of a college campus) or Title IX area of specialization (*e.g.*, gender equity in academic programs or athletics, harassment, or complaints from employees).

The Title IX coordinator’s contact information must be widely distributed and should be easily found on the recipient’s website and in various publications.⁹ By publicizing the functions and responsibilities of the Title IX coordinator, the recipient demonstrates to the school community its commitment to complying with Title IX and its support of the Title IX coordinator’s efforts.

⁷ 34 C.F.R. § 106.9.

⁸ 34 C.F.R. § 106.8(a).

⁹ 34 C.F.R. § 106.9.

Supporting the Title IX coordinator in the establishment and maintenance of a strong and visible role in the community helps to ensure that members of the school community know and trust that they can reach out to the Title IX coordinator for assistance. OCR encourages recipients to create a page on the recipient’s website that includes the name and contact information of its Title IX coordinator(s), relevant Title IX policies and grievance procedures, and other resources related to Title IX compliance and gender equity. A link to this page should be prominently displayed on the recipient’s homepage.

To supplement the recipient’s notification obligations, the Department collects and publishes information from educational institutions about the employees they designate as Title IX coordinators. OCR’s Civil Rights Data Collection (CRDC) collects information from the nation’s public school districts and elementary and secondary schools, including whether they have civil rights coordinators for discrimination on the basis of sex, race, and disability, and the coordinators’ contact information.¹⁰ The Department’s Office of Postsecondary Education collects information about Title IX coordinators from postsecondary institutions in reports required under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and the Higher Education Opportunity Act.¹¹

B. Training of Title IX Coordinators

Recipients must ensure that their Title IX coordinators are appropriately trained and possess comprehensive knowledge in all areas over which they have responsibility in order to effectively carry out those responsibilities, including the recipients’ policies and procedures on sex discrimination and all complaints raising Title IX issues throughout the institution. The resource guide accompanying this letter outlines some of the key issues covered by Title IX and provides references to Federal resources related to those issues. In addition, the coordinators should be knowledgeable about other applicable Federal and State laws, regulations, and policies that overlap with Title IX.¹² In most cases, the recipient will need to provide an employee with training to act as its Title IX coordinator. The training should explain the different facets of Title IX, including regulatory provisions, applicable OCR guidance, and the recipient’s Title IX policies and grievance procedures. Because these laws, regulations, and OCR guidance may be updated, and

¹⁰ OCR began collecting this information through the CRDC for the 2013-2014 school year. More information about the CRDC is available at <http://www.ed.gov/ocr/data.html>.

¹¹ The Department will begin collecting this information in 2015. More information about the Clery Act data collection is available at <http://www.ed.gov/admins/lead/safety/campus.html>.

¹² See, e.g., the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations, 34 C.F.R. Part 99; and the Clery Act, 20 U.S.C. § 1092(f), and its implementing regulations, 34 C.F.R. Part 668. These documents only address an institution’s compliance with Title IX and do not address its obligations under other Federal laws, such as the Clery Act.

recipient policies and procedures may be revised, the best way to ensure Title IX coordinators have the most current knowledge of Federal and State laws, regulations, and policies relating to Title IX and gender equity is for a recipient to provide regular training to the Title IX coordinator, as well as to all employees whose responsibilities may relate to the recipient's obligations under Title IX. OCR's regional offices can provide technical assistance, and opportunities for training may be available through Equity Assistance Centers, State educational agencies, private organizations, advocacy groups, and community colleges. A Title IX coordinator may also find it helpful to seek mentorship from a more experienced Title IX coordinator and to collaborate with other Title IX coordinators in the region (or who serve similar institutions) to share information, knowledge, and expertise.

In rare circumstances, an employee's prior training and experience may sufficiently prepare that employee to act as the recipient's Title IX coordinator. For example, the combination of effective prior training and experience investigating complaints of sex discrimination, together with training on current Title IX regulations, OCR guidance, and the recipient institution's policies and grievance procedures may be sufficient preparation for that employee to effectively carry out the responsibilities of the Title IX coordinator.

Conclusion

Title IX coordinators are invaluable resources to recipients and students at all educational levels. OCR is committed to helping recipients and Title IX coordinators understand and comply with their legal obligations under Title IX. If you need technical assistance, please contact the OCR regional office serving your State or territory by visiting <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> or call OCR's Customer Service Team at 1-800-421-3481; TDD 1-800-877-8339.

Thank you for supporting your Title IX coordinators to help ensure that all students have equal access to educational opportunities, regardless of sex. I look forward to continuing to work with recipients nationwide to help ensure that each and every recipient has at least one knowledgeable Title IX coordinator with the authority and support needed to prevent and address sex discrimination in our nation's schools.

Sincerely,

/s/

Catherine E. Lhamon

Assistant Secretary for Civil Rights

APPENDIX H

Subcommittee Report – Campus Climate

Report from the Campus Climate Subcommittee

*President’s Task Force on the Prevention of Sexual Assault & Harassment
Spring 2015*

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Committee Charge

The charge to the subcommittee was as follows:

Conduct a campus-wide survey to assess the scope of the problem of sexual assault and sexual harassment on our campus, to understand the level of awareness of campus resources for responding to both, and to engage any related issues that can guide institutional decision-making. The survey ought to include the collection of both quantitative data (questionnaires) and qualitative data (focus groups, town hall discussions, and the like). The task force's report should include significant findings as well as related recommendations.

Members

The subcommittee consisted of a total of nine members, including students, staff, and faculty. Members are listed below in alphabetical order.

Margaret M. Cook Associate Director, Center for Student Diversity
Jodi Fisler (chair) Director of Student Affairs Planning & Assessment
Alex Greenspan Undergraduate, Class of 2015
Peel S. Hawthorne..... Associate Athletics Director
Rachael Kaufman Undergraduate, Class of 2015
Rowan Lockwood Faculty (A&S)
Colleen Reynolds Undergraduate, Class of 2017
Jordan Taylor Undergraduate, Class of 2015
Marjorie Thomas Dean of Students

Activities

The subcommittee met once a week or every other week through the 2014-15 academic year. Our activities included:

- (1) **National Sexual Misconduct Campus Climate (NSMCC) Survey.** In October 2014, we disseminated this survey to all W&M students, including undergraduate and graduate, full-time and part-time students. The response rate (for students completing the survey) was 27% (n = 2236 out of 8282). See [Appendix A](#) for a report of the survey results. This report and other findings from the survey were shared with the full Task Force and informed the work of the other subcommittees.
- (2) **Student ID Stickers.** In the Fall of 2014, we also worked with Auxiliary Services to create and distribute stickers to correct inaccurate information on upper-level student ID cards. The emergency contact information for sexual assault response provided on the back of the cards was out of date.
- (3) **Open Forum.** In February of 2015, we sponsored a campus-wide forum entitled "Gender-Based Violence & Discrimination at W&M: An Open Conversation," which attracted approximately 100 attendees, most of whom were students. Task Force members Alex Greenspan '15 and Mallory Tucker '15 led the program. Ginger Ambler

gave an overview of the Task Force structure and goals. Many Task Force members were in attendance and helped facilitate student-led breakout discussions on Investigation & Adjudication, Campus Climate, and Prevention & Education. See [Appendix B](#) for the notes from this event.

- (4) **National College Health Assessment (NCHA).** In February 2015, the College disseminated this survey to a random sample of 4,000 undergraduates and the entire population of full-time graduate students. The response rate for undergraduates was 37% (n=1,343), and the response rate for graduate students was 46% (n=746). See [Appendix C](#) for selected results related to sexual misconduct.
- (5) **Focus Groups.** In February/March 2015, we administered a total of 16 focus groups, advertised to all W&M students, staff, and faculty. Ten student focus groups included: 1 for women in social sororities, 1 for men in social fraternities, 1 for female varsity athletes, 1 for male varsity athletes, 1 for LGBTQ students, 1 for sexual assault survivors and advocates, 1 for non-sorority women, 1 for non-fraternity men, and 2 for the general student population (regardless of gender or group affiliation). Six faculty/staff focus groups included: 1 for School of Education faculty, 1 for Law School faculty, 2 for A&S and VIMS faculty, and 2 for staff who interact with students outside the classroom. A total of 103 students and 48 faculty and staff members participated in the focus groups. A report of findings, which is summarized in [Appendix D](#), was shared with the full Task Force to inform the work of other subcommittees.
- (6) **Senior Honors Thesis.** One of our members, Rachael Kaufman '15, wrote her honors thesis in anthropology on how people on campus talk about sexual assault. Rachael shared her findings with the subcommittee, and we discussed their implications. Some of the findings and recommendations presented here were affirmed and/or informed by Rachael's research.
- (7) **Other Activities.** In addition to generating and reviewing data, the subcommittee evaluated an alternative climate survey for possible future use at W&M, provided feedback to the Dean of Students Office (DOSO) on revisions to sections of their website related to sexual assault resources, and provided feedback to Kiersten Boyce on a faculty needs assessment and a resources poster.

Recommendations

Climate Assessment

We recommend that the College assess campus climate with respect to gender-based discrimination and violence regularly, to include a campus-wide survey every other year and targeted focus groups every three years. In the absence of more specific guidance from the state or federal government, we recommend that the College use a customized version of the survey currently being piloted by Rutgers University. This survey is being validated and refined by Rutgers at the request of the White House's Task Force to Protect Students from Sexual Assault. Although the survey

is long, it covers areas that the NSMCC survey did not, including more detailed questions about where sexual misconduct occurred, by whom, where, whether alcohol or other drugs were involved, and decisions regarding reporting. We also recommend that climate assessments always feature questions that allow data to be disaggregated by particular demographic variables, including (but not limited to) gender identity, sexual orientation, class year, fraternity/sorority membership, athlete status, and participation in study abroad.

Culture

Develop a pervasive community message that addresses gender-based discrimination and violence and asserts that such conduct will not be tolerated in our community. This starts with strong statements from the senior leaders of the institution that establish clear expectations for community behavior and ongoing attention to this issue. There was a consistent theme in the focus group discussions that students, as well as faculty and staff, see a gap in the guidance and leadership on campus regarding gender-based discrimination and violence.

Leadership

We recommend that the College designate a single person or office with the centralized responsibility for the issue of gender-based discrimination and violence on campus. The campus would benefit from greater centralization of communications and services related to sexual assault. Someone needs to ensure, for example, that the information on all handouts, workshops, and websites on this topic remains current and consistent. Right now, this responsibility is split among several units (including the Office of Compliance, the Dean of Students Office, the Health Promotion Office, and Faculty Assembly, among others) and no single unit has “ownership.” Due to the complexity of these issues, it is in the best interest of the university to determine where the responsibility for the coordination of such efforts should rightly be housed.

Communication

It is abundantly clear from the survey and focus groups that students, faculty, and staff know very little about policies and procedures related to gender-based discrimination and the resources available to provide support when it occurs. It is vital that communication on these issues be enhanced. We recommend that the College work to improve communication regarding campus sexual violence in the following ways:

- (1) **Increase transparency.** According our focus group and forum data, many of the students, staff, and faculty we interviewed believe that W&M is more concerned about protecting its reputation than protecting students from sexual violence. Increased transparency could involve releasing statistics on campus sexual violence at W&M (including numbers, location information, and imposed sanctions), and reaching out to targeted student populations with information.

Transparency will be particularly important for regaining the trust of the student population on this issue.

- (2) **Develop proactive communication.** Proactive messaging could include reminding students of sexual violence issues and resources before large-scale social events such as the Last Day of Classes, Campus Golf, and Homecoming Weekend. It is much easier to avoid the appearance of victim-blaming when messages are delivered proactively (rather than in response to a crisis situation), and address non-consensual or aggressor behaviors in addition to guidance about prevention and support resources. These messages could include tips on how to recognize dangerous situations, reminders about the definition and parameters of consent, how to practice bystander intervention, and where to seek help. As an example, a campus message from Virginia Commonwealth University (VCU) is attached in [Appendix E](#). We call particular attention to the first part of the VCU message, which contains reminders and tactics used by potential assailants.
- (3) **Improve user experience.** Websites, brochures, posters, and other communications need to be updated regularly, paying particular attention to the user experience. Students, staff, and faculty in focus groups and at the forum reported difficulty finding, scrolling through, and understanding the information on campus sexual violence on the W&M website. This information should be written by experts for each population (e.g., health promotion staff and Health Outreach Peer Educators [HOPE] for students, student affairs representatives for staff, faculty representatives for faculty, etc.), then assessed by each population before implementation. Improvements could include buttons for quick and easy access to emergency services and infographics to explain complex information. (The DOSO has already begun streamlining its own website content and publications.)
- (4) **Ensure streamlined and timely communication with reporting and responding parties.** Under the current reporting guidelines, survivors and reporters often have to report (and tell their story) to multiple offices. According to focus group and forum data, survivors and reporters find this process harrowing. It represents a significant deterrent to reporting and may be partly responsible for the discrepancy between anonymously reported and officially reported incidences of sexual violence. (We understand the DOSO has already begun amending its communication process over the Spring 2015 semester in response to this concern.)

At the same time, students who are involved in the reporting and adjudication process would appreciate more frequent communication *from* the university to update them on the progress of their reports and to offer ongoing care and support. We recommend that the College develop a program that matches reporting and responding parties with support staff from The Haven or DOSO

and asks each student how frequently they would like to be updated on the proceedings.

Given that education and prevention, investigation and adjudication, and faculty/staff training all influence and are influenced by campus climate, it is impossible to separate our own recommendations entirely from the domains of the other subcommittees. Where our recommendations seemed to be solidly within the scope of other committees, we have forwarded them to the appropriate chairs for their consideration. Where the recommendations had more direct implications for campus climate, however, we have included them in this report.

Prevention and Education Resources

We recommend that the College commit to increasing both the quality and quantity of programming on this topic for students, including:

- (1) Increased administrative oversight of peer education and peer support programs.** In order for education efforts to be effective, students must receive consistent messages with a reasonably consistent level of quality. Information that is incomplete or poorly delivered undermines students' confidence in the material, as well as in the university's commitment to the effort. Students, staff, and faculty in focus groups and at the forum expressed the need for increased professional guidance and oversight of peer-led education and support programs (e.g., HOPE, Someone You Know, and The Haven), in terms of training, educational content, and quality control. This was also affirmed by Rachael Kaufman's honors thesis research. We recognize the importance of peer education, but feel strongly that more involvement by professional staff is required to ensure quality and assessment of student programming.
- (2) Inclusion of gender and racial climate issues into new curriculum.** According to our discussions in focus groups and the forum, some students believe that the new curriculum represents an ideal opportunity to incorporate gender and racial climate content into the college curriculum. We strongly encourage the faculty of A&S to consider the vital role that these issues play in a liberal arts education.
- (3) Increased support for and assessment of The Haven.** The Haven was launched very successfully this year, with a limited budget and an entirely student staff (all of whom graduated this spring). We recommend that a full-time staff member be hired to oversee this resource center and that significant time and energy be spent on the long-term sustainability of this important resource. We also recommend that assessment of the efficacy of this resource begins as soon as possible.

(4) **Inclusion of the Consensual Amorous Policy in the Student Handbook.**

Students appear to be misinformed about the Consensual Amorous Policy, and these misunderstandings are preventing them from reporting inappropriate faculty/staff behavior. We recommend that the College provide students with information on this policy in the Student Handbook.

Reporting and Adjudication

Information from surveys and focus groups suggest possible changes to the College's approach to reporting and adjudication.

(1) **Strengthen sanctions.** Students, faculty, and staff in the focus groups and forum are all concerned by the sanctions imposed on students found responsible for non-consensual sexual intercourse. We note that no student has ever been expelled from W&M for committing sexual violence. This has a chilling effect on campus climate because students perceive that others are not held accountable for their actions. We recommend that the College consider stronger sanctions for students, staff, and faculty found responsible for campus sexual violence.

(2) **Develop and implement policies on reporting and adjudication for study abroad programs.** Students participating in study abroad programs appear to be particularly vulnerable to assault and harassment according to information gathered at the focus groups and forum. We recommend revisiting policies in place to report and deal with these issues, especially when they involve a W&M faculty or staff member.

Faculty/Staff Training

We applaud the mandatory training of faculty and staff launched this year. We include a few follow-up suggestions:

(1) **Extend the work of the Task Force to include gender climate issues among faculty and staff.** The current Task Force was tasked with investigating the W&M student experience as it relates to campus sexual violence. Faculty and staff focus groups revealed, however, that W&M faculty and staff are also experiencing considerable levels of gender-based discrimination— in particular, sexual harassment by supervisors and senior faculty—and they do not know who to turn to for help. Our conversations with faculty indicate that NTE and adjunct faculty are particularly vulnerable to this sort of behavior. Given that the purview of Title IX includes faculty and staff, it is in the best interest of W&M to extend the activity of this Task Force, devoting attention to faculty and staff in their own right.

(2) **Mandate and expand training options for faculty and staff.** In focus groups, faculty and staff were identified as “part of the problem” when they were

unfamiliar with resources and/or were themselves perpetrators of gender-based discrimination.

(3) Develop/Review and update policies and procedures related to faculty misconduct. Members of the subcommittee, as well as a number of faculty focus group participants, are aware that the Faculty Handbook is not compliant with important legislation on this topic (including Title IX and VAWA). Members of the subcommittee are also aware of multiple instances of faculty/staff indiscretions that continue unchecked for years, primarily because students do not formally report this behavior. The students involved with the faculty/staff member are either not familiar with the Consensual Amorous Relationships Policy, feel sorry for the faculty/staff member, or are concerned that their grades will be invalidated if they report. Furthermore, it is unclear whether anyone compiles information on Title IX incidents involving faculty and staff. This information is extremely important for personnel decisions (including tenure, promotion, study abroad, advising student clubs, engaging in fieldwork with students, mentoring other faculty, and campus-wide accolades). Faculty and staff in the focus groups reported that multiple incidents involving colleagues were not sufficiently addressed, resulting in those individuals remaining in the community and continuing their inappropriate behavior. This has clear implications for campus climate on gender issues. We recommend that one central person (or office) be tasked with compiling this information, and that these records be consulted when decisions are made regarding tenure and promotion, awards, and special privileges or opportunities. We also recommend strongly that the College examine the Faculty Handbook, Consensual Amorous Relationships Policy, and all other relevant policies for their efficacy, consistency, and compliance with state and federal law (particularly in terms of the investigative process and timeline for resolution), and make adjustments as needed.

(4) Develop interim measures for pending faculty/staff cases. We strongly recommend that the College develop interim measures addressing faculty/staff status during pending cases (e.g., should they be permitted to travel with students, attend conferences with students, participate in fieldwork with students, lead study abroad programs, etc.). It must be noted that in other fields employee activities are restricted, pending investigation. For example, if a police officer is accused of sexual harassment, they are either placed on desk duty or placed on leave with pay.

Student Subpopulations

Data from surveys and focus groups suggest that specific student subpopulations are more likely to experience or be accused of campus sexual violence than others. In response, we recommend the following:

- (1) **Develop educational programming targeting relevant subpopulations.** It is notable that even when climate issues in a particular subpopulation are revealed (for example, the misogynist Sigma Chi email released in Spring 2014), the subpopulation is not required to undergo any mandatory education. This undermines trust and also represents a missed opportunity to engage students in productive conversation about community standards and expectations.
- (2) **Implement mandatory programming for the leaders of these subpopulations.** This could include student, staff, and faculty leaders, such as coaches, managers, advisors, team captains, sorority presidents, etc. Our focus group and forum information revealed that these leaders set the “tone” or climate for their student groups. The leaders should be equipped with information and tools to advise their group members appropriately about what a community of care looks like, including standards of conduct as well as available resources.
- (3) **Delay sorority and fraternity recruitment.** The higher rates of some types of sexual violence in the sorority population, according to survey and focus group information, suggests that this group may be particularly vulnerable. We recommend a two semester delay before the recruitment process begins, to allow incoming students to adjust to the social complexities of college and learn more about the organizations they might consider joining. Assuming chapter leaders are provided with increased education and training (as recommended above), prospective members can go into the recruitment process with a better sense of how the various chapters are educating their members, and the extent to which chapters are concerned with promoting a safe and inclusive culture within their organizations.
- (4) **Modify Residence Life oversight of fraternities and sororities.** Currently, these organizations are assigned housing assistants (HAs) who are associated with Greek life at W&M and do not live in the houses. This results in a system with little to no oversight of these residences. Students who are familiar with the system report that the HAs do not feel comfortable reporting sororities and fraternities for disciplinary issues. We recommend that the staffing structure for these residences be reviewed and modified to address these issues and provide a higher level of support and accountability among the residents.

Appendix A: Results of National Sexual Misconduct Campus Climate Survey

See following 12 pages.

Findings from William & Mary’s Sexual Misconduct Campus Climate Assessment

Released by the Task Force for Preventing Sexual Assault & Harassment
April 2015

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Key Findings

See the specified pages for more details about each key finding.

- **2%** of all respondents indicated they had been raped since enrolling at W&M. Among only undergraduate women and men, these percentages are 4% and 1% respectively (pp. 7-8). Only **12%** of those had filed a grievance with the university (p. 10).
- **18%** of all respondents had experienced some form of *physical* sexual misconduct (e.g., unwanted sexual touching, grabbing, and pinching, as well as rape). Among undergraduate women and men, these percentages are **28%** and **11%**, respectively (pp. 6-7).
- **46%** of all respondents had experienced some form of *physical or non-physical* sexual misconduct, including unwanted sexual jokes, comments, and gestures; unwanted physical contact (e.g., sexual touching, grabbing, and pinching, as well as rape); indecent exposure; and requests for sexual favors (p. 6). Only **3%** of these students had filed a grievance with the university (p. 10).
- Members of social fraternities and sororities experienced and observed various types of sexual misconduct at considerably higher levels than unaffiliated students (pp. 8-9).

Introduction

William & Mary participated in the National Sexual Misconduct Campus Climate Survey (NSMCCS) in October 2014. The web-based survey was designed and administered by eduOutcomes, a higher education data collection and analysis company. Although the survey did not capture all of the information we think is relevant to the issue of sexual assault and harassment on campus, it provided us with a solid foundation of information that we can build on through future survey efforts.

The survey invitation was sent by email to 8,282 individuals, which represented the entire population of actively enrolled students who were over the age of 18 as of September 30, 2014, including graduate students and part-time students. We are grateful to the many students who chose to participate and share their information.

Respondents

A total of 32% of the student population (n=2,660) responded to the survey and answered at least one question. Approximately 500 respondents started the survey but did not finish it. Using the more conservative completion rate (27%), the margin of error for findings based on all respondents is $\pm 1.8\%$.

Note on the margin of error: *The 1.8% margin of error applies only to the entire respondent pool. Margins of error for subpopulations, if known, are provided in Tables 2 and 3 below. We caution readers not to calculate the number of cases of misconduct for the entire student body (or a subpopulation) without taking the appropriate margin of error into account. Survey research is not an exact science, and even good margins of error can result in a large range.*

Table 1 shows the composition of the respondent pool. All demographic information was self-reported by the respondents. The exact number of respondents varied by question, because students either did not complete the survey or opted not to answer particular demographic questions. The percentages in Table 1 reflect the composition of the respondents who provided answers to those demographic questions.

Note on gender categories: *The survey gave students the option of identifying their gender as Male, Female, Transgender, and Other. The Transgender and Other categories have been collapsed into a single category, which we refer to in this report as “trans*,” an umbrella term for people who do not identify with the gender binary.*

We must acknowledge that students' experience of sexual assault and/or harassment might have influenced their decision to opt in or out of the survey. Unfortunately, we cannot know the extent of any potential bias that might have resulted from this self-selection. Although we recognize self-selection as a factor to bear in mind in interpreting the results, it does not undermine our confidence in the overall findings.

Table 1. Profile of Respondents

Due to rounding, percentages may not add up to 100%.

	Respondents (n)	% of Respondents	W&M Population (N)	% of W&M Population
Undergraduates	1679	78%	6154	74%
Gender				
<i>Men</i>	588	35%	2701	44%
<i>Women</i>	1066	64%	3453	56%
<i>Trans*</i>	18	1%	<i>Unknown</i>	<i>Unknown</i>
		100%		100%
Race/Ethnicity				
<i>White</i>	1191	71%	3678	60%
<i>Students of color</i>	467	28%	2057	33%
<i>Unknown</i>	21	1%	419	7%
		100%		100%
Fraternity/Sorority				
<i>Men</i>	141	8%	750	12%
<i>Women</i>	347	21%	1150	19%
<i>Total</i>	488	29%	1900	31%
Athletes				
<i>Men</i>	43	3%	274	4%
<i>Women</i>	58	3%	222	4%
<i>Total</i>	105	6%	505	8%
Graduate Students	479	22%	2110	25%
Gender				
<i>Men</i>	180	38%	996	47%
<i>Women</i>	294	61%	1115	53%
<i>Trans*</i>	4	1%	<i>Unknown</i>	<i>Unknown</i>
		100%		100%
School				
<i>A&S and VIMS</i>	105	22%	553	26%
<i>Business</i>	75	16%	498	24%
<i>Education</i>	95	20%	400	19%
<i>Law</i>	152	32%	659	31%
<i>Unknown</i>	52	11%	0	0
		101%		100%

Survey Content & Findings

The survey included questions about (1) students' personal experiences with various forms of sexual misconduct; (2) their observation of misconduct directed at others; (3) their knowledge of Title IX; (4) their experience with the university grievance process (if applicable); and (5) their perception of the campus climate with regard to accountability, respect, and other related issues. The content and most notable findings for each section are provided below.

Sections I & II: Experience and Observation of Sexual Misconduct

Section I of the survey began with this instruction:

“Please answer the following questions after thinking about your personal experiences since being enrolled at William & Mary. **Please note you should only report experiences that were unwelcomed.** Has an employee or student at William & Mary ever done the following?” (The bold typeface was included in the instruction.)

- Made comments of a sexual nature to you?
- Made jokes of a sexual nature to you?
- Made gestures of a sexual nature to you?
- Spread rumors about your sexual orientation?
- Spread rumors that were sexual in nature about you?
- Touched you in an unwelcomed sexual way?
- Grabbed you in an unwelcomed sexual way?
- Pinched you in an unwelcomed sexual way?
- Purposefully brushed up against you in an unwelcomed sexual way?
- “Flashed” or exposed themselves to you (flashing is when someone intentionally and without your permission displays his/her breasts or genitals to you)?
- “Mooned” you (mooning is when someone intentionally and without your permission displays his/her buttocks to you)?
- Asked you for sexual favors in exchange for something?
- Raped you (rape is defined as vaginal, oral, or anal penetration with an object or body part)?

If students indicated they had experienced a particular behavior, they received two follow-up questions asking how often they had experienced that behavior and how recently.

Section II asked students to “think about behaviors that you have seen of others since being enrolled at William & Mary. Have you ever **observed** a William & Mary employee or student engage in any of the following unwelcomed activities towards someone other than you?” They were then given the same behaviors and follow-up questions as in Section I.

Prevalence of Misconduct

Looking at all respondents together, 46% reported experiencing at least some form of sexual misconduct, and 56% reported observing misconduct toward someone else.

Women reported experiencing most forms of sexual misconduct at higher rates than men, and undergraduates have experienced it more frequently than graduate students. Table 2 shows different types of misconduct and the percentage of students in each group who had experienced those behaviors. (Note: Because the number of trans* students in the overall population is so small, their information is presented here as a group, not divided by degree level.) The margin of error for each sub-population is provided, if known.

Table 2. Experience of Sexual Misconduct by Gender and Degree Level

	Female Undergrads		Male Undergrads		Female Grad Students		Male Grad Students		Trans*	
	% (±2.5)	n	% (±3.6)	n	% (±4.9)	n	% (±6.6)	n	%	n
Experienced non-physical misconduct ^a	50%	524	40%	232	34%	98	21%	36	39%	9
Experienced indecent exposure ^b	4%	42	7%	42	1%	3	2%	3	9%	2
Experienced requests for sexual favors	3%	36	2%	11	3%	8	0%	0	13%	3
Experienced physical misconduct ^c	28%	301	11%	62	11%	33	2%	4	22%	5
Observed misconduct of any kind	73%	752	63%	359	51%	140	35%	60	70%	16

^a Non-physical misconduct includes comments, jokes, gestures, and rumors.

^b Indecent exposure includes flashing and mooning.

^c Physical misconduct includes touching, grabbing, pinching, purposefully brushing up against someone, and rape.

The Justice Department's 2007 *Campus Sexual Assault Study*, which is the source of commonly-cited statistics on the prevalence of college sexual assault, included non-consensual sexual touching within its definition of sexual assault.¹ The "physical misconduct" variable reported

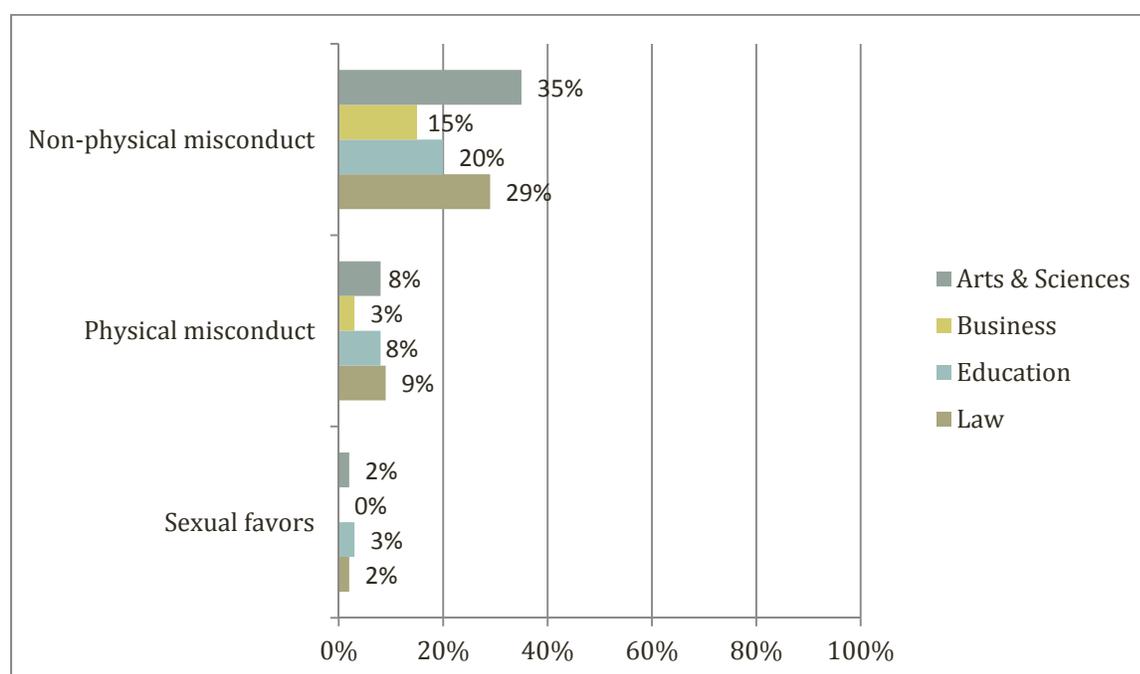
¹ Krebs, C. P., Lindquist, C. H., Warner, T. D., Fisher, B. S. & Martin, S. L. (2007). The Campus Sexual Assault (CSA) study: Final report (Document 221153). Washington, D.C.: U.S. Department of Justice. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>

here is the closest variable we have as a basis for a comparison. According to the Justice Department study, one in five undergraduate women (20%) and one in 16 undergraduate men (6%) experience sexual assault while in college. The percentages of undergraduate women and men who experienced physical misconduct at W&M were 28% and 11%, respectively. We must bear in mind that the Justice Department's figures take into account only those acts that occurred as a result of physical force or incapacitation, whereas W&M's survey was less specific and allowed for a broader range of scenarios (including force and incapacitation, but also coercion and other possible means). We say this only to clarify how the data points differ, not to imply a judgment about the significance of any form of assault relative to another.

Graduate & Professional Schools

Figure 1 illustrates the prevalence of different types of misconduct in the university's graduate and professional schools. The School of Marine Science/VIMS is excluded from this chart because of the small number of respondents from those programs.

Figure 1. Experience of Sexual Misconduct by Graduate School



Experience of Rape

The "physical misconduct" variable in Table 2 and Figure 1 above includes rape, as well as other forms of unwanted physical contact. Looking at rape by itself, we see that 58 students (2% of the respondent pool) indicated they had experienced rape since enrolling at W&M. Table 3 shows how that group breaks down by gender and degree level. Eight students who indicated they had been raped declined to provide their gender or other demographic information.

Table 3. Experience of Rape by Gender and Degree Level

	Female Undergrads		Male Undergrads		Female Grad Students		Male Grad Students		Trans*		Gender Unknown
	% (±2.5)	n	% (±3.6)	n	% (±4.9)	n	% (±6.6)	n	%	n	n
Experienced rape	4%	38	1%	6	2%	5	0%	0	4%	1	8

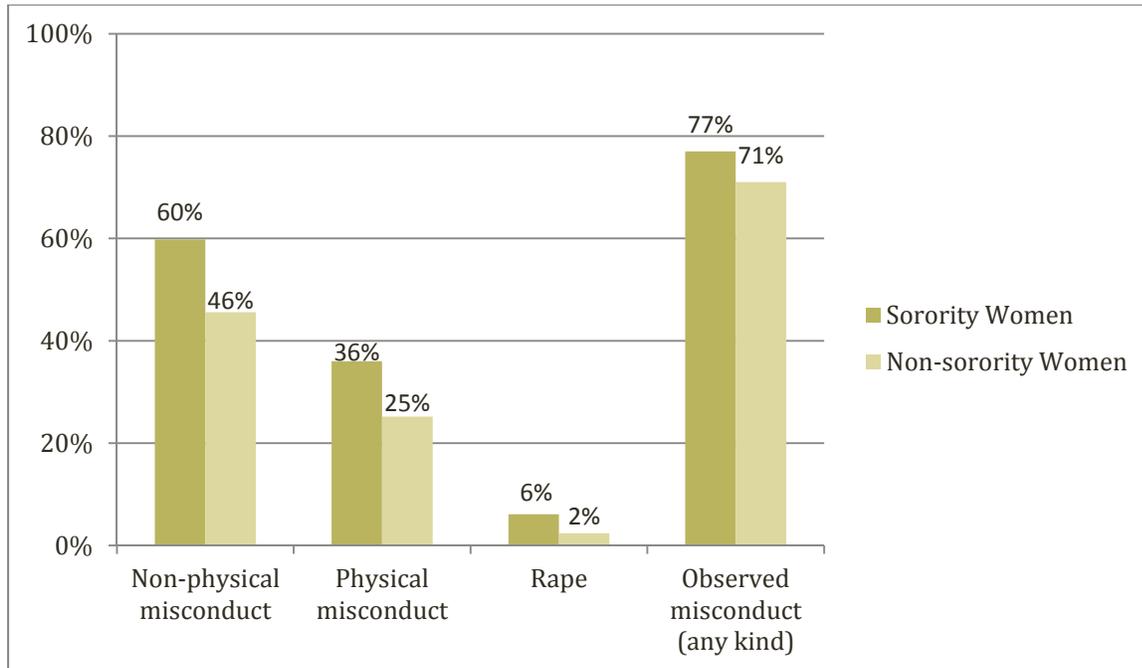
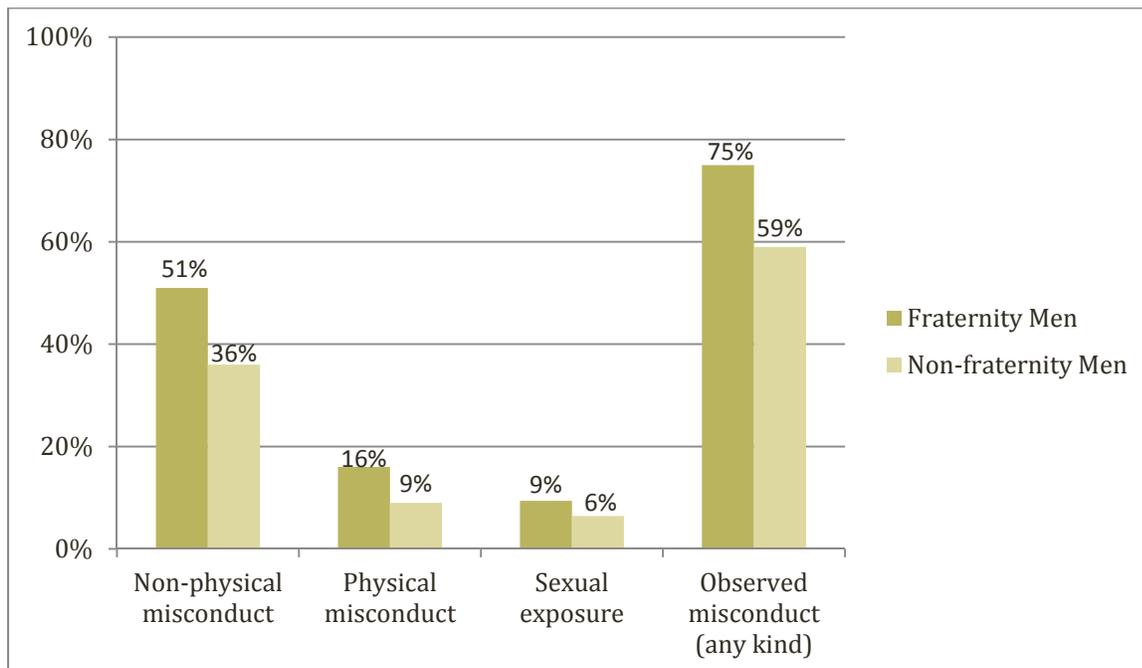
Of the 58 students who had experienced rape, 12 of them (21%) indicated they had been raped more than once. The response options for the follow-up question about frequency consisted of ranges, with the uppermost range being “5 or more times.” Although this makes it impossible to report a precise number of rapes, we can say that the total number of incidents is at least 83. Using the follow-up question about how recently students had experienced rape and comparing that to their self-reported ages, we were able to see that approximately 41% of the respondents who had been raped were 18-19 years old at the time of the assault.

Notable Sub-populations

To better understand how sexual misconduct was experienced within particular student sub-populations, we ran several analyses that compared students according to a variety of characteristics. In addition to gender and degree level, we compared groups based on race/ethnicity, major, residence (on- or off-campus), financial aid status, membership in a social fraternity or sorority, and membership on an intercollegiate athletic team. (The survey, unfortunately, did not include a question about sexual orientation.) These comparisons yielded only a few noteworthy differences.

White students reported experiencing nearly all forms of sexual misconduct at higher rates than students of color. The greatest difference was in the experience of non-physical misconduct (comments, jokes, gestures, and rumors), which was reported by 35% of students of color and 44% of white students.

The most striking differences involved undergraduate students in social fraternities and sororities. Figures 2 and 3 illustrate how Greek-affiliated undergraduates and non-Greek undergraduates experienced different types of misconduct. Compared to unaffiliated undergraduate women, sorority members were 31% more likely to experience non-physical misconduct, 43% more likely to experience physical misconduct, and 154% more likely to experience rape. The differences were similarly high for fraternity men, who experienced non-physical misconduct, physical misconduct, and sexual exposure at rates 40%, 86%, and 48% greater than non-fraternity men, respectively. Greek-affiliated undergraduates were also more likely to observe some kind of sexual misconduct, with more than 75% of fraternity and sorority members observing misconduct, compared with 67% of unaffiliated undergraduates.

Figure 2. Experience of Misconduct by Sorority and Non-sorority Undergraduates**Figure 3.** Experience of Misconduct by Fraternity and Non-fraternity Undergraduates

Section III: Title IX Knowledge

Just under 58% of all respondents said they knew how William & Mary defines sexual harassment/assault, and approximately 10% said they knew the name of W&M's Title IX Coordinator. (We do not know if they were correct; the survey did not ask them to enter a definition or a name.) More than half of the respondents (52%) indicated they **did not** know how to file a grievance. This may explain—at least in part—the fact that only 35 students reported filing a grievance with the university. That equates to less than 3% of the 1,227 students who had experienced some kind of misconduct. Among the 58 students who had been raped, 7 students (12%) had filed a grievance.

Section IV: Experience with the Grievance Process

The 35 students who had filed a sexual assault/harassment or gender discrimination grievance with the university were asked a series of questions about their experience with the process. A majority of students agreed that they were given a chance to tell their side of the story (63%); they were treated respectfully (63%) and fairly (57%); and the outcomes of their cases were consistent with institutional policies (51%). The largest source of dissatisfaction was the time it took to resolve a grievance; 43% said their grievance was not handled in a timely manner. Additionally, just under a third of the students felt the information they received about the process was either unclear or insufficient. (Some aspects of the grievance process, including communication about the process and outcome, were strengthened in the revised sexual misconduct policy and procedures that took effect in February 2015.)

Section V: Campus Climate

All students received questions about the degree of integrity they perceived in the people and processes at W&M, as well the degree to which women and men are treated with respect on campus. Most students agreed that expectations for student behavior are communicated clearly and consistently at the university (77% for undergrads, 71% for grad students), and that student conduct policies are enforced in a consistent manner (64% at both undergraduate and graduate levels). A similar percentage of students agreed that students hold one another accountable for their behavior (69% of undergraduates, 67% of grad students).

The survey revealed a stark difference in the perception of respect for men and women at both the undergraduate and graduate level. Among undergraduates, 85% agreed that men are treated with respect on campus, as opposed to only 62% who agreed with the same statement about women. Among graduate students, the figures were 85% and 75%, respectively. Figure 4 illustrates how the perception of respect for men and women differed by the gender of the respondent, and Figure 5 shows the differences among other undergraduate sub-populations. Given the high incidence of misconduct experienced by sorority women, it is not surprising that only 50% of that group agreed that women are treated with respect on campus.

Figure 4. Perceptions of Respect for Men and Women by Gender and Degree Level

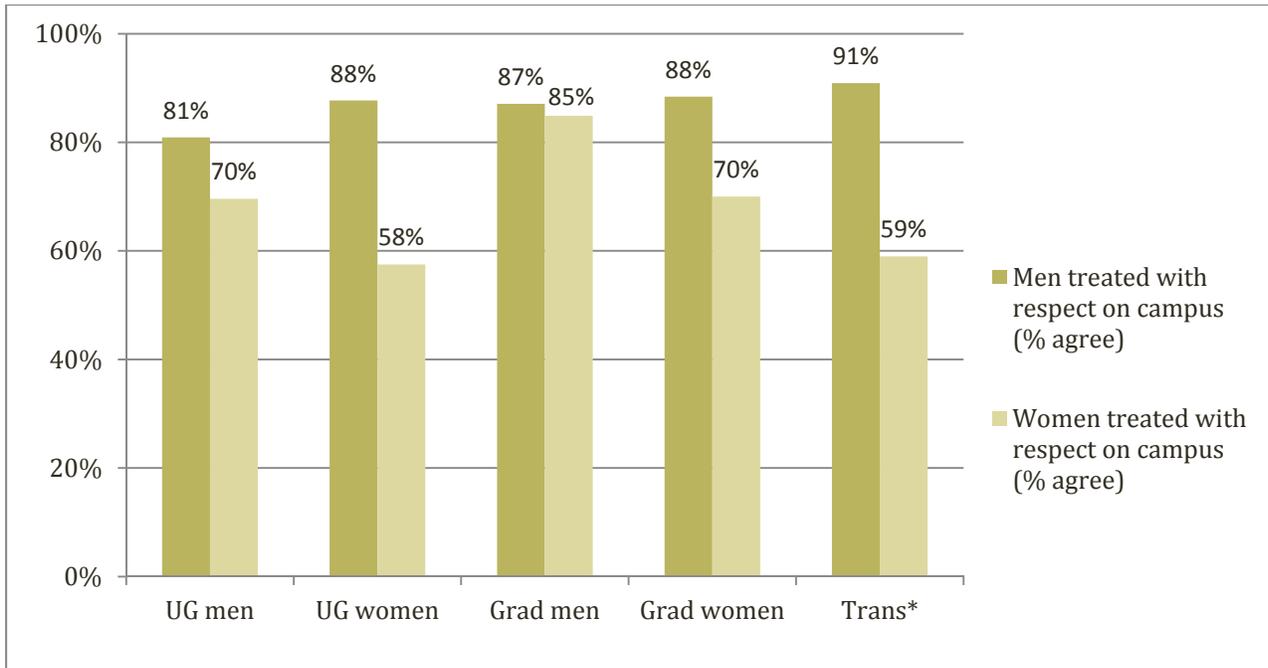
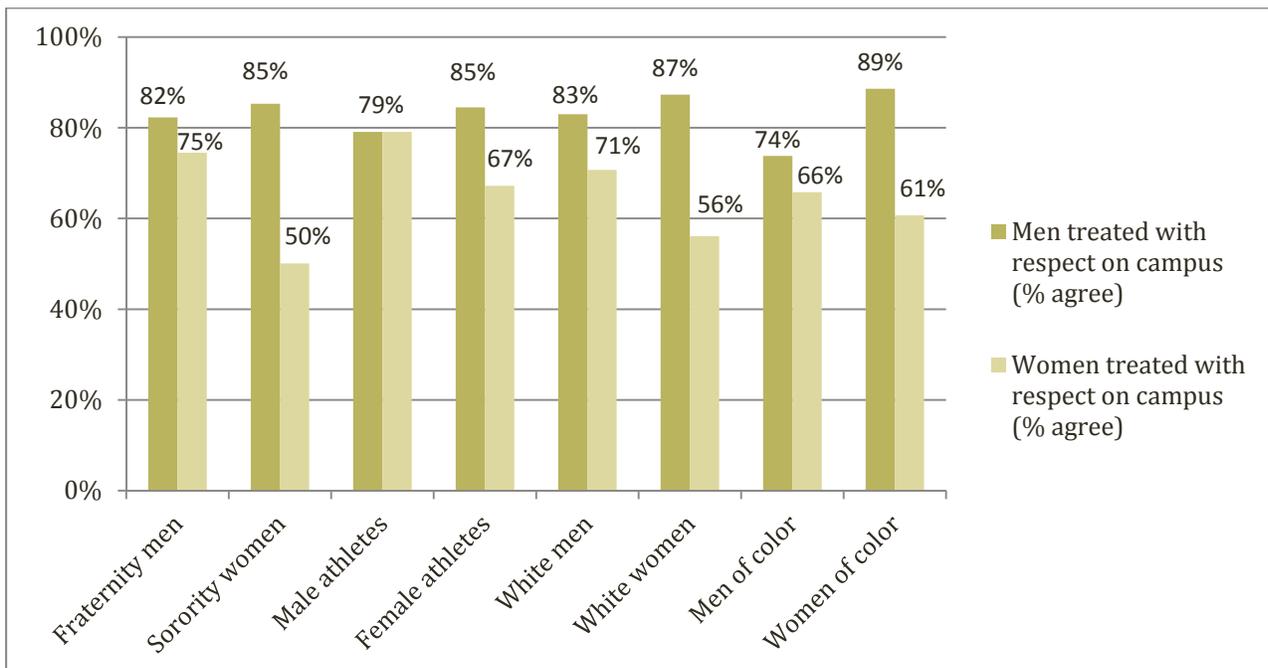


Figure 5. Perceptions of Respect for Men and Women by Sub-populations (Undergrad Only)



Limitations

There is no such thing as a perfect survey instrument. The NSMCCS did not include a number of important items that were of interest to us. The survey did not include questions about sexual orientation, international/citizenship status, or W&M class year. It also told us nothing about the circumstances of the misconduct students had experienced—for example, whether it occurred on campus or elsewhere; whether it was the result of force, coercion, incapacitation or some other means; or whether the perpetrator was a student, staff, or faculty member. We also don't know whether students sought support in the aftermath of an act of misconduct; if so, from whom; and if not, why not. Questions about the grievance process did not tell us what deters students from making a formal report. We acknowledge these limitations and strongly recommend that future surveys include items that will allow the university community to get an even more complete picture of what sexual misconduct looks like at W&M, who is affected by it, and how effectively we as a community respond to it, both formally and informally.

Conclusion

The purpose of this report is simply to present the findings from the survey that was conducted in Fall 2014. It does not represent the full scope of the Campus Climate Subcommittee's work this year, nor does it include a summary judgment of the campus climate or recommendations about what the survey suggests should be improved. A subsequent report will integrate data from this survey with qualitative data generated through a series of focus groups held in Spring 2015 with faculty, staff, and students. Findings from all of the Campus Climate Subcommittee's quantitative and qualitative assessments are being shared with other members of the Task Force, and will inform the recommendations of all four subcommittees, which will be submitted as part of the Task Force's final report at the end of the academic year.

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Appendix B: Notes from “Gender-Based Violence & Discrimination at William & Mary: An Open Conversation” (February 12, 2015)

Education/Prevention

- Classes to talk about gender issues, etc.
- More safe spaces, more avenues for people to seek help
- What resources are working?
 - Like haven, student volunteers
 - PERK kits offered at student health center, but limited hours and awareness. Don't take outside insurance
 - Counseling center is great, but understaffed/underfunded
- Suggestion: haven hotline that could be operated by RAs on duty?
- Fraternities doing bystander intervention program
- What plans are in the works to institutionalize required education on issues of interpersonal violence, harassment, and discrimination? When we make this conversation optional we miss a majority of the student population, particularly people who are more likely to perpetuate or contribute to a culture that makes people feel unsafe.
- Education begins and ends at orientation and it isn't very effectively presented.
- Not everyone understands what sexual assault is and what actions constitute sexual assault vs. sexual harassment
- Maybe requiring a general ed course to be taken on gender studies or sexual assault
- Women are more knowledgeable about these issues than men, but don't always know the resources to go to when something happens
- One way to reach people who aren't aware of these issues is to pick prominent members of various communities to be educated and to have them educate their community
- Another way would be to have cross-community conversations (i.e. have Greeks and athletes talk together)
- Peer-to-peer interactions/discussions can be powerful
- We think at a very high level at W&M and sometimes we miss the “common sense” stuff
- Discussion in co-ed clubs with what is perceived as manly
- Gender insensitivity, not all inclusive for all identities
- Victim blaming in culture and limited education on the topic. More in-depth education needed.
- Better extended orientation
 - Include all gender identities when educating on assault.
- Some tension when Greek life was brought up.
- More info wanted
- Better blue lights, more blue lights, maintenance of blue lights
- More boards and pamphlets available for resources

- IFC and Panhellenic should facilitate extended sexual assault talks.
- Freshman being blasted with information is not effective.

Faculty/Staff

- Helpful in creating safe space for survivors?
 - Tricky in classes dealing with gender (esp. biology) – discussions of biology/rape – we can be more sensitive about how we talk about things with academic connections.
 - How well you know the professors you are working with
 - has the potential to play a huge role in creating campus culture
 - would like to see how to start conversation with professors about how their role is more than just academic
 - how to balance autonomy with professors versus having a support system?
 - Bridging gap in communication between students and faculty
 - messages to professors about setting a particular class culture
 - professors should be vocal about support (need to convey support)
 - professors should recognize the humanity their students
- Are there conversations taking place or being planned to ensure faculty and staff are also protected from and supported when faced with harassment, stalking, or interpersonal violence?
- How are faculty taking their role as a resource for students? Are they receptive? Or reluctant to extend their role beyond academia? If reluctant, how is the importance of faculty support in creating a safe campus climate being conveyed? For example, have students been approached about what support they need from faculty? Or to convey that to faculty that don't understand?
- Trained faculty that you trust giving victims information/advocacy
 - Publish names of professors who have experience
- Faculty and staff training about sexual assault has helped educate them about more resources
 - The training may be more effective if there were more group discussions in person where faculty take time to define terms and make sure everyone's on the same page.
- It might be a good idea for faculty/staff to provide resources on Blackboard/office hours/in class
- Mandatory safe-zone training for faculty.
- Faculty involvement/responses
 - Many students could see professors as people to talk to confidentially
- Treated differently by professors?
 - No. Biology classes, so harder to know faces or getting to know everyone equally.
 - Pressure on professors (esp. in science) to pique interest among women—“you can have anything you want in the lab”—different generations have different understanding of gender.

- Generational gap
- ½ and ½ female to male ratio
- What resources should faculty be given to combat that?
 - Online staff training not good for interacting with people
 - Huge problem logistically but something [...] should be you getting with another human being
 - More situational
 - Needs to be clear expectations for staff about what is and isn't acceptable in the classroom
 - Need more than a resource list
- What would make you comfortable going to faculty?
 - Safe space designation—it's okay to talk
 - People would go if they felt comfortable or if the professor had unique resources.
 - Faculty member might be scared.
 - What is their job expectation? What if it's [...] for them?
 - Legislation: faculty and staff being mandatory reporters
 - Counseling center is not required to report
 - If you talk to Ginger Ambler about it, she would have to report it or be charged with misdemeanor.
 - Hadn't occurred to the senators that it's problematic to have mandatory reporter
 - If professors had to report it, it would make students uncomfortable—like a "betrayal"
 - Huge deterrent
 - Hasn't passed yet
 - Going to a professor changes your professional and personal relationship
 - Taking it to the police doesn't guarantee a positive outcome for you—don't want to cause more harm than good
 - Sending perpetrator to jail doesn't solve all your problems
 - It's more about getting legal justice now but that's not going to solve our problem
 - Full knowledge of various courses of action would be helpful. There's a lot of misinformation about the steps you can take.

How well do students understand the steps you can take?

- Minimal (consensus)
- We get a card with phone numbers from freshman orientation—it's not a one size fits all
- Even fairly informed people don't know much.

Resources you know about

- Safe Zone (Haven), HOPE, Counseling center
- DOSO—but we would be so intimidated to go talk to an administrator, but those places are actually more confidential
- You want to go somewhere safe/comfortable but the DOSO would be scary

- People don't even know who the dean is
- Some students don't trust the DOSO
- Negative ideas about Counseling Center in general, related to this and being [...] off campus
- Bad vibes on Yik Yak
- Counseling Center and DOSO feel very cold
- Clear [...] about what is and isn't confidential
- Counseling Center will report only if you are a harm to yourself/other or underage

Student education

- Fraternity has continuing education
 - active bystander intervention
- There should be continuing programming for upperclassmen
- Active and empathetic listening = good skill to teach

Should it be an option to participate in this type of education?

- maybe a mandatory
- should it be the students' responsibility to continue educating their peers?
Education maybe should be at an institutional level have mandated training
- sub communities should have mandatory training versus specific programming for greek life and athletics
- If you have mandatory training, it really needs to be effective. Not clicking through a program.

How to engage people?

- always will be some people who do not want to do this education
- hearing actual experiences that can make a bigger impact rather than a module that you click through
- Creating mandatory events that are more engaging (like this forum)
- Making a program mandatory shows student body that the administration cares about it. But making it mandatory makes students not care.
- Schools supporting events like take back the night as a pseudo-extended orientation

Current programming:

- Actual discussions are positive
- PBK sessions where they are just talking at you – less effective in diversity session, saying something about you and then if you share that commonality you step forward
- Gender inclusivity about programming
 - admin should change the process of IDing yourself to gender identity
- Single sex versus all sex education for sexual assault education
 - Don't understand point of genders being separated
 - reasoning: women feel uncomfortable with men; men feel uncomfortable about asking certain questions

- Extended orientation: maybe not do it with your halls? You're able to be more honest since you don't know everyone as well; a little more anonymous
- Extended orientation: found that it was helpful to do it with hall; helpful to know that peers were getting the same education for safety/bystander intervention reasons
- Doing diversity extended orientation (makes you get more comfortable) before the sexual assault education extended orientation

Prevention:

- have The Haven do more active programming with prevention
- they are currently mainly a support service
- worry about only teaching women how not to be raped versus aiming education at men
- ongoing dialogue in groups
- bystander intervention education should continue!

Services for survivor/support

- don't know enough to talk about it**
- should have better fluidity/transparency with Dean of Students
- who can they go to? More transparency about resources

How do we make this information present?

- People feel the Counseling Center is not able to fully help them
- They're booked solid—not helpful
- Enlarging Counseling Center—in general, not just for this issue
- Some people are uncomfortable with RAs, [...], Haven—the variety could only increase
- Don't rule anything out as an option
- Different people are comfortable doing different things
- You don't absorb anything during freshman orientation
- HOPE and programs like this are attended by people who already really care—doesn't hit target audience
- Getting it out by word of mouth is important
- Break down stigma about needing counseling
- It's hard enough to reach out for help for yourself, let alone tell others about your experience
- Question: Is this about creating better policies for survivors or about consequences for perpetrators?
- It's about knowing what to do if this happens to you or someone near you. You already feel like you have lost control, so need to make sure.
- Better lighting
- Right solution for victims isn't necessarily putting perp in jail—creating forums
- After email incident, requiring gender studies courses—but never really went anywhere. If you've never experienced it, you may not be aware of systemic issues

- You can't get a grasp on these with just a powerpoint
- Just as important as dance GER, right?
- At GW or American, there was a poster in the bathroom about what to do if you experience it
- Public place with a repetitive reminder—ingrain it in your brain
- If there were more *physical* spaces for you to go and feel safe.
- Gender neutral bathrooms? Physical reminder that gender binary isn't how we live
- No private space on campus—private place where you can just “be”
- Haven is nice because people don't have to know where you're going (just in the Campus Center)
- Signage for the Haven
- Some people still don't know Haven exists
- Marketing strategy for the Haven
- Social media/public postings
- Facebook posts
- Professors mention information in class
 - blurb on the class
- Going to talk to student organizations personally
 - give a talk about resources
- Having something on a syllabus
 - Need to mention it in person? Professors to mention it
- Idea of having resources everywhere and anywhere
- Having a professor present the education – maybe could be more impactful than students
- Consistency in the form of information that you're giving out
- The successful groups on campus are the ones that give out [...] stuff
- An “I support the Counseling Center” [...] is good PR

Would people notice sticker/buttons?

- Especially if it's something you could use
- Include information about it—phone # and location
- We're in an age of technology—use media to get out announcements
- U of Richmond—student body got “We stand with survivors” t-shirt—expresses solidarity and takes a stand against perpetrators
- College is cool because you have a lot of people living/working together

Closing

- Use the idea of a class explicating all the issues
- Educate more! Faculty, staff, students
- The people who want to know about it will know about it
- How do you get people who don't care to care?

Investigation & Adjudication

Separation of college and police force to investigate

- Not a lot of knowledge about the topic in general
- Hearings not well understood
- How does the school help students if they want to go through the police?
- What if your friend was sexually assaulted and they do not want to move forward with the process, and you feel like you need to do something?
- Better promotion of the “care report”

Is the process fair?

- Should it be weighted in favor of the accuser because it is more likely than not that they are telling the truth (lots of agreement for this)
- There are measures put into place as soon as the event is reported
- UVA article
- Idea of consent and alcohol
- Gap of learning between men and women
- Changing the *climate* is how the administration should focus efforts
- Obstacles for coming forward
 - Social experiences restrictions
 - SANE kits – we don’t have them. Lack of access may discourage.
- Website is wildly confusing and exhausting for victims
- 60 day time period isn’t true. There’s a lack of transparency, communication, understanding.
- Don’t know what happens after reporting
- Make accusations public?
- Solutions:
 - Should be policy to recommend calling police to combat taboo of charging
 - Campaign to support/affirm reporting it.
 - Show students that the college cares through acknowledging the failures in the system.
- Way for victims who don’t report formally to get support – academically, counseling, etc.
- Friends who go through the justice process – “they?” “why?” struggle with it.
- Fear of reporting
- What is the adjudication process?
- More effective to have impartial 3rd party adjudicators that aren’t connected to the college
- College required to report sexual assaults?
- Perception that is very hard to prove sexual assault, even with lower (guilt?) standards.
- Integrating people who have been found guilty is problematic. Uncomfortable letting people back into the fold. Expulsion?
 - Levels of punishment accounting for “ignorance”
 - Advocates on both sides of table

- Survivor agency in determining punishment for perpetrator?
- Transparency and clarity on rules and implementation
- What does Kiersten Boyce do? Many people don't know who she is. Not a transparent office
- How do you conduct an investigation when alcohol is involved?

Climate

- Resistance to acknowledge problem within organization
 - Fear of showing negative events
- Negative reaction to Yik Yak (belittled victim)
- Claiming overreaction to cover issue
- W&M better than other colleges but idea of old college pride and “safety bubble”
- Anonymous websites target women and feed power need
- Social media like Yik Yak causes polarization through high upvotes
- Single comments (such as Sigma Chi email) reveal like-minded attitudes in a group that allow comments to be said comfortably
- All male dominated groups tend to get focus for offensive environment (stereotype)
 - Same with male dominated careers (less and less). Idea that women have to be better than average
 - Associate certain stereotypes with careers or different groups
- Question of when frat/sorority rushing takes place before or after educational activities
 - Question of class rather than a single freshman orientation even (adding GER)
 - How to not be mandatory but still generate attendance
 - Only kids who are already knowledgeable listen
 - Suggested less structured type
- Placing Haven event on the same level of AlcoholEdu at a school environment where drinking is normal makes sexual assault “normalized so long as you don't get caught”
- What about when the worst happens? Imagine something goes wrong: a violent assault and the school has a PR nightmare. What this admission needs to do is don't shirk responsibility. No matter how much it hurts the pocket book. Own the crime. We are like this. If it happened, it *is* representative of (at the very least) a portion of this community. We are like this. Don't say William and Mary is safe.
- College is protecting itself, statistics.
 - Make process less exhausting for victims
- Need to take privileges away from rapists.
- Negative perceptions of The Haven? Students as counselors.

Appendix C: Results of National College Health Assessment

The National College Health Assessment (NCHA) was administered at William & Mary in February 2015. A random sample of 4,000 undergraduates and the entire population of full-time graduate students were invited to participate. The response rate for undergraduates was 37% (n=1,343), and the response rate for graduate students was 46% (n=746).

Unshaded columns below contain data from the 2015 administration of the survey. Shaded columns show 2012 data for comparison purposes.

	UG Women		UG Men		Grad Women	Grad Men
	2012	2015 (±2.7)	2012	2015 (±4.6)	2015 (±3.5)	2015 (±5.1)
W&M students reported experiencing the following within the last 12 months:						
Sexual touching without their consent	8%	14%	4%	5%	6%	2%
Sexual penetration attempt without their consent	3%	4%	1%	1%	2%	0%
Sexual penetration without their consent	2%	2%	1%	1%	2%	0%
When drinking, someone having sex with them without their consent	2%	2%	1%	1%	1%	0%
When drinking, having sex with someone without their consent	0%	0%	1%	0%	0%	0%
Stalking	5%	5%	4%	2%	4%	1%
An emotionally abusive intimate relationship	8%	6%	5%	3%	6%	6%
A physically abusive intimate relationship	1%	1%	1%	1%	1%	2%
A sexually abusive intimate relationship	1%	1%	2%	2%	1%	0%

In view of the disproportionately high level of sexual misconduct experienced by members of fraternities and sororities (as reported in the NSMCCS), we looked at the NCHA data by fraternity/sorority membership as well.

	UG Women		UG Men	
	Sorority 2015	Unaffiliated 2015	Fraternity 2015	Unaffiliated 2015
W&M undergraduates reported experiencing the following within the last 12 months:				
Sexual touching without their consent	17%	13%	7%	4%
Sexual penetration attempt without their consent	7%	3%	2%	1%

Sexual penetration without their consent	4%	2%	2%	1%
When drinking, someone having sex with them without their consent	3%	1%	3%	1%
When drinking, having sex with someone without their consent	0%	0%	0%	0%
Stalking	5%	5%	3%	2%
An emotionally abusive intimate relationship	5%	7%	6%	3%
A physically abusive intimate relationship	1%	1%	1%	1%
A sexually abusive intimate relationship	3%	1%	1%	2%

The NCHA data support the findings of the NSMCCS, that members of Greek social organizations experience physical sexual violence at higher levels than unaffiliated students. We advise some caution in drawing conclusions from the data on the men, however, due to the comparatively small number of men responding to the survey.

This year, we included a custom question on the NCHA asking students “Have you ever done more sexually than you had planned because you had been drinking alcohol?” Perhaps predictably, we see a large disparity again between fraternity/sorority members and non-members on this question, for both men and women. Although the same caution about the results for men applies as in the table above, the magnitude of the difference is such that we can be quite confident the difference is real.

	UG Women		UG Men	
	Sorority 2015	Unaffiliated 2015	Fraternity 2015	Unaffiliated 2015
Have you ever done more sexually than you had planned because you had been drinking alcohol? (% responding “Yes”; includes non-drinkers)	41%	19%	45%	18%
Have you ever done more sexually than you had planned because you had been drinking alcohol? (% responding “Yes”; excludes non-drinkers)	42%	23%	45%	23%

We repeated the analyses above with several other student populations, generating comparisons based on athlete status, social class year, and sexual orientation. The results follow here:

Athletes

	UG Women		UG Men	
	Athlete 2015	Non-athlete 2015	Athlete 2015	Non-athlete 2015
W&M undergraduates reported experiencing the following within the last 12 months:				
Sexual touching without their consent	13%	14%	4%	5%
Sexual penetration attempt without their consent	3%	4%	0%	1%
Sexual penetration without their consent	3%	2%	0%	1%
When drinking, someone having sex with them without their consent	0%	2%	0%	1%
When drinking, having sex with someone without their consent	0%	0%	0%	0%
Stalking	5%	5%	4%	2%
An emotionally abusive intimate relationship	2%	7%	0%	4%
A physically abusive intimate relationship	0%	1%	0%	1%
A sexually abusive intimate relationship	0%	2%	0%	2%

	UG Women		UG Men	
	Athlete 2015	Non-athlete 2015	Athlete 2015	Non-athlete 2015
Have you ever done more sexually than you had planned because you had been drinking alcohol? (% responding "Yes"; includes non-drinkers)	25%	26%	26%	25%
Have you ever done more sexually than you had planned because you had been drinking alcohol? (% responding "Yes"; excludes non-drinkers)	27%	29%	29%	30%

Class Year

W&M undergraduates reported experiencing the following within the last 12 months:	Freshman 2015	Sophomore 2015	Junior 2015	Senior 2015
Sexual touching without their consent	11%	14%	9%	13%
Sexual penetration attempt without their consent	4%	5%	2%	3%
Sexual penetration without their consent	3%	2%	1%	1%
When drinking, someone having sex with them without their consent	2%	2%	1%	1%
When drinking, having sex with someone without their consent	0%	0%	0%	0%
Stalking	3%	4%	4%	5%
An emotionally abusive intimate relationship	6%	5%	7%	5%
A physically abusive intimate relationship	1%	0%	2%	1%
A sexually abusive intimate relationship	2%	2%	1%	2%

	Freshman 2015	Sophomore 2015	Junior 2015	Senior 2015
Have you ever done more sexually than you had planned because you had been drinking alcohol? (% responding "Yes"; includes non-drinkers)	16%	29%	25%	31%
Have you ever done more sexually than you had planned because you had been drinking alcohol? (% responding "Yes"; excludes non-drinkers)	22%	34%	29%	32%

Sexual Orientation

W&M undergraduates reported experiencing the following within the last 12 months:	Heterosexual 2015	Gay/Lesbian 2015	Bisexual 2015	Unsure 2015
Sexual touching without their consent	10%	17%	20%	19%
Sexual penetration attempt without their consent	4%	0%	4%	2%
Sexual penetration without their consent	2%	0%	0%	2%
When drinking, someone having sex with them without their consent	1%	2%	3%	3%
When drinking, having sex with someone without their consent	0%	2%	0%	0%
Stalking	4%	4%	2%	3%
An emotionally abusive intimate relationship	5%	6%	9%	5%
A physically abusive intimate relationship	1%	0%	2%	2%
A sexually abusive intimate relationship	2%	2%	2%	2%

	Heterosexual 2015	Gay/Lesbian 2015	Bisexual 2015	Unsure 2015
Have you ever done more sexually than you had planned because you had been drinking alcohol? (% responding "Yes"; includes non-drinkers)	25%	28%	31%	22%
Have you ever done more sexually than you had planned because you had been drinking alcohol? (% responding "Yes"; excludes non-drinkers)	29%	36%	34%	26%

Appendix D: Summary of Focus Group Findings

Student Focus Groups

Summary prepared by Jodi Fisler

Note: The bullet points below summarize key points made by participants in 10 focus groups (103 students) held in Spring 2015. The Campus Climate Subcommittee takes no position on the specific suggestions or comments presented here. The subcommittee's recommendations, based on the focus groups and other data, are presented elsewhere in our report.

The following themes reflect what participants said about their experiences and perceptions. In preparing this summary, no effort was made to verify any claims of fact or to correct any possible inaccuracies.

Role of alcohol

- Alcohol blurs lines of communication and consent.
- Alcohol is seen as an excuse—people don't blame themselves or others for what they did when they were under the influence.
- Students should be held accountable for their behavior while drunk—by the administration and by one another.

Who, when, where, and how

- Fraternities can breed a culture of sexual harassment, but the problem is not limited to Greek organizations.
- Students said off-campus parties are of particular concern—no authorities to keep an eye on things, students have to walk back and forth. Also a lot of binge drinking at off-campus parties, which encourages hook-ups¹.
- Certain fraternities are thought to be associated with roofies². (No one mentioned this perception at parties of athletes or other non-fraternity events.)
- Some students (e.g., athletes on high-profile teams, members of top-tier fraternities) are seen as having an “untouchable” or “halo” status. Students want to be around those people, no matter what they do. Students said this contributes to lack of accountability.
- Freshmen are particularly vulnerable, especially in the first few weeks of the fall semester. They go to a lot of fraternity parties, and haven't had time to develop the kind of friendships that many students rely on for protection.
- Upperclassmen can easily exert pressure on freshmen by virtue of their leadership roles, sometimes without meaning to.

¹ “Hook-up” is an ambiguous term used for casual sexual activity. It can encompass anything from kissing to touching, to sexual intercourse.

² “Roofie” is a slang term for Rohypnol and other “date rape” drugs, used to incapacitate a potential victim.

Sexual harassment, stalking, non-completed assault

- Some students don't think other people—friends, family, or the administration—would take a complaint seriously if it involved less violent forms of harassment (e.g., stalking, catcalling, inappropriate touching) or a non-completed assault. For some, this was based on personal experience.

Barriers to reporting

- Fear—common fears are social isolation, retaliation, not being believed, getting in trouble (e.g., for drinking), or having the story known among the student's friend group or wider W&M community.
 - Fears are especially salient for certain groups, including men (who are not “supposed” to be victims), sorority women, and LGBTQ-identified students.
- Lack of knowledge/information about options and resources
- Cultural barriers—stigma exists around counseling and help-seeking, particularly in certain cultures; some students doubt that counselors/administrators would know how to support them in culturally appropriate ways.
 - LGBTQ students, in particular, have less confidence in the effectiveness of campus resources based on negative experiences around other, less-sensitive issues.
- Peer pressure—some friends may pressure survivors not to report out of fear that the survivors or organizations they belong to will lose popularity.
- Confusion—sometimes students aren't sure what occurred, or whether it constitutes assault.
- Concern for the perpetrator—sometimes students are reluctant to get the perpetrator in trouble, especially if that person is/was a friend or intimate partner.
- Administrative hurdles—interim measures through Dean of Students can feel burdensome to access; reporting requires re-telling the story several times to different people; Counseling Center is perceived by some students as unhelpful and/or difficult to access except in extreme circumstances.
- Lack of trust—some do not have confidence that reporting would yield a positive outcome, believing the university would be more interested in covering up an incident rather than providing genuine support to the person making the report.

Perceptions of campus resources

- Mixed feelings about some of the resources available on campus—Counseling Center was seen by some as helpful; others perceived it to be ineffective and/or inaccessible. The Haven is seen as a positive resource by most students who are aware of it; some like being able to speak confidentially to another student, while others would rather speak to a professional.

Mistrust

- Perception and concern among students that the administration wants to keep information about sexual assault buried, or do as little as it must to comply with Title IX.

- Similar mistrust toward student organizations—there is the perception that everyone is more concerned about their reputation than about doing the right thing by survivors.

Role of faculty

- Possible resource for support and advocacy—some students would like professors to be better trained to give them information about response options; many suggested a Safe Zone-like training for faculty, resulting in a sticker or other designation to identify advocates.
 - Students appreciate ways in which faculty demonstrate support (e.g., trigger warnings, allotting class time to discussing things like Sigma Chi email)
- Part of the problem—some students see professors ignoring inappropriate behavior, or even engaging in it, without any apparent censure from other professors or the administration.

Honor Code for personal behavior

- W&M students value the Honor Code—students asked why sexual assault/personal violence can't be elevated to the status of an honor violation?
- Maybe introduce something similar that articulates students' responsibility to one another as people.

Need for education

- Current education around sexual assault is perceived as extremely weak—students want/need to know more about prevention and response, consent, and bystander intervention. There is no shared understanding of what constitutes assault, and policies are not sufficient to guide students through the “gray areas” (e.g., alcohol, hook-up culture).
- Strong consensus that orientation programs have limited value on their own.

Structure & format of education

- Mixed opinions on the value of mandatory educational programs—most students thought consistent, mandatory training was necessary (especially for fraternities), but also acknowledged difficulty of engaging people who don't want to be there.
- Educational programs must be personal, real, and relevant.
- W&M should consider requiring a course—students care about GPA and will engage if they know their grade depends on it.
- Peer education is uneven—content and tone depend a lot on the experience and comfort level of the student leading the session
- Education should be inclusive—don't assume men are rapists and women are victims. Should also address intersection of gender violence with other important issues (e.g., gender identity, race/ethnicity, mental health)
- Consider timing and placement of educational programs—these can convey how seriously students are expected to take it

Suggestions for improved education & prevention

- Better coordination with WMPD and WJCC Police about policies and tone
- Self-defense classes offered by police; informal interactions among police, students, parents
- Posters or other information distributed to students about how to deal with sexual assault, how to respond to friends. Incorporate positive, affirming statements.
- Clear information about reporting options that would help survivors decide what to do
- Transparency about prevalence of sexual assault on this campus; make it a concrete reality in trainings and on printed materials.
- Publish names of organizations and chapters where sexual assault happens as a means of accountability.
- Repeated trainings, discussion-based sessions
- Mandatory RA boards on sexual assault and medical amnesty
- More nuanced discussion of the link between alcohol and sexual assault

Investigation & adjudication process

- Process is emotionally exhausting—requires telling the story to several different people and reliving the experience with no guarantee of a positive outcome
- Process is obscure—students don't know what happens to either party when a report is made, what the repercussions might be, how a police report compares to an administrative report
- W&M should reach out more actively to check on students who are going through the process.

Sanctions

- Mixed opinions about zero tolerance and strong sanctions for offenders—some believe severe sanctions would encourage reporting and demonstrate commitment to accountability; others think harsh penalties could deter some survivors from reporting, especially if the perpetrator is someone they care about
- Suggestion that students be able to put something on record without having to commit to a conduct or court proceeding—some survivors would be willing to file a formal charge if they found out someone else had filed a complaint against the same person

Faculty Focus Groups

Summary prepared by Colleen Reynolds and Jodi Fisler

Note: The bullet points below summarize key points made by participants in six focus groups (48 faculty/staff members representing a wide variety of academic and administrative departments and offices, including professional schools) held in Spring 2015. The Campus Climate Subcommittee takes no position on the specific suggestions or comments presented here. The subcommittee's recommendations, based on the focus groups and other data, are presented elsewhere in our report.

The following themes reflect what participants said about their experiences and perceptions. In preparing this summary, no effort was made to verify any claims of fact or to correct any possible inaccuracies.

Students discussing sexual misconduct with professors

- Varied experiences—some professors said they hear about sexual misconduct from at least one student every semester, some hear about the issue from other faculty, and others hear nothing.

Training for faculty & staff

- Some faculty and staff are knowledgeable about resources for students; many are not.
- Questions about prevalence, the reporting/adjudication process, how to talk to survivors, how to connect them to resources
- Faculty and staff should be provided with clarification as to whether they should be having these conversations at all or directing students to other resources.
- Need quick references, information charts that are prominently displayed
- Training conducted in Spring 2015 was inadequate; many questions were left unanswered
- Many participants knew of colleagues who just clicked through slides without reading the material
- Suggestion for a SafeZone-like training—repeated every few years, allow students to identify faculty/staff members who are open to discussing these topics and are sufficiently trained to be an effective, safe resource

Mandatory reporting

- General concern among faculty and staff about requirement to report sexual misconduct—it feels awkward and may make students less likely to report
- Don't understand what mandatory reporting entails or what happens after a report is made
- Suggestion that some faculty should be exempt (for example, if they teach a course in which disclosures are more likely to occur because of the nature of the course topic)

Misconduct by/toward faculty and staff

- Concern about stories from students and colleagues about faculty who have engaged in harassment or had inappropriate relationships with students and other faculty members, apparently without consequence
- Some faculty/staff have felt ostracized for taking a strong position against their colleagues' inappropriate conduct
- Particular concern among faculty about power imbalance between non-tenure-eligible (NTE) and tenured/tenure-eligible (T/TE) faculty—NTEs are predominantly women, adding another dimension to the power dynamic that exists among different position levels
- Some participants noted a lack of respect for women by some male colleagues and students—directed at female faculty/staff as well as female students
- Climate of gender bias evident in course evaluations—students focus on different things when evaluating men vs. women (e.g., a female professor's appearance)
- Gender dynamic on hiring committees—committee composition is often heavily male, concern that inappropriate questions are sometimes asked about female applicants and not about male applicants

Study abroad programs

- Leading a study abroad program changes the faculty-student relationship—puts faculty in contact with students in ways they aren't used to
- Faculty have been both victims and perpetrators of misconduct abroad
- Conflict of interest in cases where faculty/staff at a partner institution engage in misconduct
- It's complicated—laws, policies, and procedures differ by country

Fraternities and athletic teams

- Concern about fraternities and athletic teams as groups that foster a climate of sexual misconduct—off-campus parties facilitate alcohol abuse and hook-up culture
- Insufficient response to fraternity misconduct, by faculty as well as by administration
- Suggestion for targeted educational programming to fraternities

Adjudication process

- Frustration and confusion about adjudication process—students have shared frustrations and concern that administration is covering up issues rather than dealing with them
- Information is unclear—many faculty and staff would like to understand how the process works
- Lack of trust in the process based on negative experiences shared by some students
- Students can feel like they are the ones being punished
- Concern that reports of sexual harassment and stalking are brushed off, not taken seriously

- Barriers to students reporting—others students’ negative experiences, fear of having to leave school or see the perpetrator on campus, fear of being victimized by the process, fear of retaliation, confusion about what happened
- Administrative errors diminish confidence in the process
- Concerns about policy and process—fairness, due process, legal implications, lack of consideration of prior offenses

Intersectionality

- Larger climate issues—racism, sexism, homophobia, mental health are all related
- Suggestion to integrate all of these issues into larger conversation about compassion and relationships

Campus resources

- Counseling Center—seems overburdened; students think they will be forced out of school if they go
- The Haven—consensus that The Haven needs to be more prominent more widely recognized
- Mixed feelings about how The Haven should be staffed—more student run vs. more administrative oversight

Education/Prevention

- W&M needs to do more to provide effective education, information, and resources for students as well as faculty and staff
- Education for students should extend beyond orientation, should include training on bystander intervention, what to do after an assault, self-defense
- Concern about content—some worry that men will feel targeted and branded as rapists, others worry that emphasis will be on how to keep from being a victim rather than how to keep from being a perpetrator
- Important to focus on international students as well—attitudes and definitions differ by culture; international students need to understand culture and resources available here

Appendix E: Sample Campus Communication

Notice of Sexual Assault:

On (DATE) VCU Police were notified of a reported Sexual Assault. The incident took place on or about (DATE) in (location). The suspect was an acquaintance to the survivor.

VCU Police remind members of the community of the following:

- Engaging in any type of sexual activity without the explicit consent of your partner is sexual assault.
- Sexual assault is non-consensual activity, ranging from unwanted touching to forced intercourse which can include sexual contact with someone who is impaired by alcohol, drugs, or any other intoxicant that impairs their judgment.
- Always seek verbal, sober, clear consent. Immediately stop sexual advances if the other person indicates no interest or if they say "no". Consent to one sexual act does not imply consent to another. The absence of a "no" does not mean "yes."
- Never pressure or coerce someone into engaging in sexual activity.
- Approximately 75% of rapes are committed by acquaintances (www.rainn.org).
- If you are ever in a situation where you are unsure or scared call VCU Police immediately.
- If you witness a situation that appears unsafe or makes you uncomfortable, intervene if it's safe to do so or go to a safe area and call for help.
- Be on the lookout for suspicious people who may attempt to isolate someone who is intoxicated or has been drinking. Bystander intervention is a known tool to help to prevent campus sexual assault. Get involved if it's safe to do so, or go to a safe area and call for help.
- Alcohol and drugs may impair judgment, making it difficult to notice unsafe situations and intervene to help others. If either party is under the influence of alcohol or drugs, consent cannot be given.

Be aware of tactics used:

Tactics used to commit sexual assault include intruding into someone's personal space physically, isolation and "feeding" or encouraging alcohol and/or other drug consumption.

Although alcohol is the most commonly used drug to facilitate sexual assault, other tactics include adding drugs, such as GHB, Ketamine, or Rohypnol, to a person's drink to incapacitate them. GHB, also known as Liquid Ecstasy, relaxes a person's inhibitions, causes drowsiness, and may result in a loss of consciousness. Ketamine, also known as Special K, makes a person feel as if they are separated from their body and detached from reality. Rohypnol causes a person to become drowsy, dizzy, and lack motor control and coordination. Prescription drugs, such as benzodiazepines or anti-anxiety medications, are also sometimes used to incapacitate an individual.

Using or requesting the use of birth control is not the same as consenting to sexual activity.

Develop a safety plan with friends. Help each other to stay safe by sticking together and making sure someone does not become isolated. Use safety apps, such as Circle of 6 and Live Safe to notify others if you feel unsafe, isolated or need assistance.

- **Be alert and aware at all times when you are with acquaintances.**

- **Be aware of your surroundings and trust your instincts.**
- **Report all suspicious people and circumstances to the VCU Police Department.**

VCU’s policies on sexual misconduct:

Amnesty from Student Conduct for the Reporting Party- It is not the practice of the University to pursue disciplinary action against an accuser or witness for his or her improper use of alcohol or drugs (e.g., underage drinking), provided that such student is acting in good faith as a complainant or witness to the events of the alleged sexual misconduct.

VCU is obligated under federal law (Title IX, 20 U.S.C. § 1681(a)) to investigate reports of sexual misconduct, to take action to eliminate sexual harassment and sexual assault, prevent its reoccurrence and its adverse effects. Title IX protects any person from sex-based discrimination. The University will take measures in order to protect students' rights and personal safety. Such measures include, but are not limited to, modification of VCU living arrangements, academic accommodations, interim suspension from campus pending a hearing, and reporting to the local police.

If you are the victim of a sexual assault many options are available to you; *Retaliation for reporting is strictly prohibited.*

If you have been the victim of a sexual assault, you are not alone. There are people at VCU, and in the Richmond community, who are here to support you. We encourage you to report it to VCU Police. After speaking with a specially trained officer, a criminal investigation can begin with your consent. VCU will also vigorously address sexual assault, harassment, or misconduct when committed by a VCU student or employee.

Reporting/Support Resources:

For more information on filing a Title IX complaint, visit www.titleix.saf.vcu.edu or contact Dr. Reuban Rodriguez, (804) 366-1643 rbrodriguez@vcu.edu

VCU Office of Institutional Equity: [804-828-1347](tel:804-828-1347)

<http://equity.vcu.edu/complaint/index.html>

VCU Helpline: [888-242-6022](tel:888-242-6022) (toll free)

VCU Sexual Assault and Domestic Violence Services [804-828-9355](tel:804-828-9355)

<http://www.thewell.vcu.edu/>

VCU Counseling Services [804-828-6200](tel:804-828-6200) (Monroe Park Campus)

[804-828-3964](tel:804-828-3964) (MCV Campus)

<http://www.students.vcu.edu/counseling/>

University Safety Case Manager [804-837-8753](tel:804-837-8753)

<http://www.threat.vcu.edu/>

Title IX Coordinator for students, Dr. Reuben Rodriguez [804-828-8940](tel:804-828-8940)

http://www.students.vcu.edu/docs/sexual_misconduct.pdf

VCU Police

<http://www.vcu.edu/police/>

Emergency # 828-1234
Non-Emergency # 828-1196

VCU Police Victim-Witness Specialist 828-6356

Officer Tricia Mozingo- tmozingo@vcu.edu

If you are not ready to report, or are unsure, please consider contacting a confidential counselor or victim advocate for yourself or a friend: own situation or someone you know:

VCU Counseling Services: [804-828-6200](tel:804-828-6200) (to speak with a counselor after hours, call 828-1234 and ask to be connected to an on call counselor).

The Greater Richmond Regional Hotline: [804-612-6126](tel:804-612-6126)

LGBTQ Partner Abuse & Sexual Assault Helpline: [866-356-6998](tel:866-356-6998) (M-F, 8am-8pm)

To explore your options for reporting, counseling, support groups and other resources, please contact The Wellness Resource Center, to speak with an advocate: [804-828-2085](tel:804-828-2085)

YWCA of Richmond 804-612-6126
www.ywcarichmond.org/

If you have general questions about the criminal justice process, even if you are not ready to report, you may contact Cynthia Micklem, Commonwealth's Attorney at: 804-646-8685
Get involved in ending violence and supporting students who have been impacted by violence.

VCU Student Groups
- Sexual Assault & Violence Education-Students (SAVES) 804-828-9355
- Men Against Violence (MAV) 804-828-9355

Students, faculty and staff are encouraged to share this information with other members of the community, and are asked to be aware of their surroundings, report suspicious activity to police and use the campus RamSafe transportation service by calling 804-828-SAFE (7233).

Anyone with information pertaining to this crime can contact the VCU Police Department at (804) 828-1234 or text VCUTIP to 274637 anonymously.

You can also download the Live Safe mobile safety application for free and submit information directly to VCU Police.

[Why am I receiving this email?](#) Virginia Commonwealth University is dedicated to promoting a safe and secure environment for learning, living, working or visiting. This notification is part of our

efforts to prevent and solve crimes. To report a crime in progress or an emergency on campus, call 804 828-1234. For off campus emergencies, dial 911. VCU's annual safety report is available at: http://www.vcu.edu/police/2011_safetyreport.pdf. Maps of the core campus and VCU Police jurisdiction for each campus are available for review. View the Monroe Park Campus at: <http://www.police.vcu.edu/docs/MonroeParkMap.pdf> and the MCV campus at: <http://www.police.vcu.edu/docs/MCVCampusMap.pdf>.

APPENDIX I

Subcommittee Report – Education & Prevention

Report from the Education and Prevention Subcommittee

*President’s Task Force on the Prevention of Sexual Assault & Harassment
Spring 2015*

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Committee Charge

The charge to the subcommittee was as follows:

The charge of this subcommittee is to assess the effectiveness of our current strategies and staffing to prevent sexual assault and harassment and to educate the campus community (undergraduate and graduate students, faculty, staff and parents) about them. The task force's report should include recommendations for more effective prevention and education.

Members

The initial subcommittee consisted of five members and 3 additional members were added. Members are listed below in alphabetical order.

Deb Cheesebro..... Chief of Police
Catherine Forestell..... Associate Professor of Psychology
Eric Garrison..... Assistant Director of Health Promotion
Susan Grover..... Vice Provost for Academic & Faculty Affairs
Donna Haygood-Jackson..... Director of Care Support Services
Anna Martin..... Vice President for Administration (retired 1/15)
Johnna Moore..... Undergraduate, Class of 2016
Jordan Taffet..... Undergraduate, Class of 2016

Activities

A task force will often engage in a lengthy study and wait until after a Final Report is submitted to initiate any needed improvements. This Task Force decided at the outset that our work would be twofold: conduct the study to formulate our recommendations, and initiate needed improvements simultaneous to the study, as appropriate.

The list of activities below represents this approach. We met throughout the year, worked to better understand the needs, and collaborated on possible recommendations. As we gained a greater understanding of needs we also tried to start addressing them, as possible.

(1) Reviewed and discussed existing W&M prevention and education efforts.

We spent considerable time identifying current prevention and educational programming. This includes all orientation, extended orientation, on-line modules, peer group involvement/presentations, and other direct delivery of educational messages and services.

(2) Reviewed and discussed relevant literature pertaining to the state of sexual violence on college campuses.

We received, reviewed, and discussed publications of relevant topics, prior studies, practices of other colleges, on-going incidents, pending legislation, W&M values and policies, and existing federal and state laws. This review included Title IX and the Jeanne Clery Act. Members also conducted outreach for further information, especially as it relates to how other schools are dealing with these same issues.

(3) Reviewed data gathered by the Campus Climate subcommittee.

Members of our subcommittee attended the campus-wide forum, “Gender-Based Violence & Discrimination at W&M: An Open Conversation” February, 2015 to hear the discussion first hand. We also reviewed all data collected and summarized from this forum, the 16 focus groups conducted through February and March, results of the National Sexual Misconduct Campus Climate Survey (NSMCC), and data from the National College Health Assessment (NCHA).

(4) Actively monitored associated relevant activity at the State level.

- Members of the subcommittee reviewed and provided feedback on House and Senate bills about sexual violence issues on college campuses being considered by the Virginia General Assembly. We attended the joint session of the House Courts and House Education Committees to listen to the testimony presented on survivors’ experiences, college incidents of sexual violence, reporting processes, perceived merits of the proposed legislation, and expressed concerns over the impacts of the proposed legislation.
- Members also actively monitored the actions and developing recommendations of the Virginia Governor's Task Force on Combating Campus Sexual Violence. We considered their final findings and recommendations as it relates to W&M.

(5) Attended the screening of “The Hunting Ground.”

We attended the first college campus screening of “The Hunting Ground,” a documentary on campus sexual assaults. This film uses the personal stories of college students to help describe the current state of sexual violence on college campuses. The faculty, staff and students in attendance participated in a Q&A session following the film. The subcommittee worked with the W&M Police Department so that all available police officers attended the film session. Over two-thirds of the W&M Police Department attended and met together afterward to discuss the issues presented.

(6) Members began working on specific initiatives as follows:

- Members began working on increased communications and collaboration across the Dean of Student’s Office, Health Promotion, The Office of Compliance and the W&M Police Department.
- Eric Garrison, Assistant Director of Health Promotion and Sexual Assault Prevention Specialist, conducted training with W&M Police. This training utilized W&M students in role play interview scenarios.
- The Chief of Police served as one of the instructors for student volunteer advocates that staff The Haven, a place where survivors of sexual assault can find support and advocacy.
- Subcommittee members from this and other subcommittees started specific dialogues on Title IX processes, Clery Timely Warnings, processing student conduct cases, police resources, criminal case processes, and other areas where multiple departments have shared or intersecting responsibilities.
- The School of Business initiated a formal Bystander Intervention Training (Train-the-Trainer) program for August, 2015. Todd Mooradian, Associate Dean for Faculty & Academic Affairs, School of Business, is working with the subcommittee chair and the Associate Vice President for Health and Wellness to plan and implement this initiative. This is in addition to current bystander intervention efforts.

- Consistent with the State Task Force recommendation that law enforcement prevention efforts should be part of the coordinated campus and community sexual assault prevention plan, the W&M Police Department conducted a review of police responsibilities relating to sexual violence on campus. We:
 - Conducted the first police-student outreach day at the Sadler Center, and this experience will serve as the basis for planning a year-long series of such strategic outreach efforts.
 - Selected police officers to be trained to teach Bystander Intervention, student orientation, and specific student presentations.
 - Determined all police officers will receive advanced training on campus sexual assault investigation, including trauma-informed interviewing techniques. This training will be completed in August 2015, and will also be required in-service training for any new officer.
 - Began updating police practices and procedures to reflect a more consistent, community-oriented approach to combatting campus sexual violence. This included a checklist used by the W&M Sexual Assault Response Team (SART), and a commitment to work with others on updating the SART communications and protocols. The State Task Force addressed SART in their recommendations, as well.
 - Drafted a new affirmation to the campus community on how the police department will handle cases of sexual violence.
 - Designated a Sergeant to help identify areas on campus where students may feel more vulnerable, or where the geographical/environmental circumstances may present a higher risk for crimes of opportunity. We are evaluating the feasibility of increasing bike patrols through the wooded trails and addressing lighting issues identified in a prior risk mitigation survey.

RECOMMENDATIONS

University Values Statement

Core values are the essence of the institution and underlie all of our work, our interactions with each other, and the strategies we employ to accomplish our stated mission. These deeply held beliefs shape our culture and serve as driving forces in moving the University forward. Many institutions of higher education, including William & Mary, identify and promote common values that are directly connected to the broad mission of teaching, research, and public service. Given recent conversations and concerns about the physical, mental, and emotional health of students, the question is whether the current values provide a sufficient foundation for all of our work in this particular area.

This year many campus conversations centered on sexual violence, student mental health, diversity, and the student expectations of a College that promotes One Tribe, One Family. This dialogue prompted the subcommittee to explore campus climate, discuss campus culture, and examine the W&M Vision, Mission, Strategic Focus, Core Values, Code of Ethics, Goals and Strategic Plan. We believe Core Values is an area that requires further study and enhancement.¹ We recommend:

- (1) **Craft and adopt a student welfare value statement.** W&M should add one or more core values to explicitly state our fundamental belief in the health, safety and overall well-being of W&M students. Specific language should be developed to include nurturing and supporting physical, mental, emotional and social well-being.
- (2) **Align W&M practices with new value statement.** After crafting and adopting this value statement(s) W&M should examine current practices to determine where we are aligned or misaligned with the new explicit value statement. This review will provide a basis for affirming effective practices and for identifying areas for possible changes for the purpose of enhancing efforts towards the overall welfare of the student body.

¹ While the conversation and the scope of this Task Force is specifically student-focused, the question about similar values pertaining to faculty and staff also exists.

Leadership and Coordination

Currently, the responsibility for addressing sexual violence on campus is distributed across several individuals, committees, units, and Departments. There has been no single entity designated to lead, coordinate, and evaluate the various University efforts. This issue is complex and it is important that we get it right. Efforts must be properly aligned and interconnected to produce the most effective outcomes possible for the student body. We recommend:

- (1) **Designate one entity to lead and coordinate all prevention, intervention, and postvention efforts.** W&M should clearly designate a person, office, or standing committee with centralized responsibility for managing all prevention, intervention and postvention efforts related to sexual violence on campus. This creates ownership and accountability.
- (2) **Establish and maintain strategic management plan/system for all efforts to address gender-based discrimination and violence.** This entity should promote common goals and objectives to be accomplished on an annual basis; facilitate effective communication across individuals and Departments with related responsibilities; ensure a coordinated, systemic approach to achieving objectives and coordinate on-going data collection efforts to measure effectiveness of education, programs, policies, and practices. This should include a periodic climate survey that will provide consistent and useful data over time. This recommendation is consistent with, and yet exceeds, the State Task Force recommendation to initiate a comprehensive prevention plan.
- (3) **Assess adequacy of resources to achieve established goals and tasks.** Assess whether allocated financial and human resources are adequate to address the increased needs of sexual violence education prevention and programming efforts. For example, is there a designated training fund?

Available Resources

It is clear that students do not possess the desired level of knowledge about educational programs, reporting options, and available resources for help relating to sexual violence. Information that does exist is viewed as fragmented, out of date and difficult to locate. We recommend:

- (1) **Provide highly-visible and easily-accessible resource materials.** W&M should update and maintain both written and electronic resource materials regarding sexual violence. Resource materials should be highly visible, easily accessible and communicated across campus for use.

(2) **Provide a unified and consistent approach to all related topics in education and prevention.** All resources should present consistent subject matter and a common visual identity.

(3) **Ensure that information on the W&M website is always up-to-date and comprehensive.** There should be information about:

- Educational opportunities available to W&M students.
- Contact information for W&M staff and other available individuals that can meet with students to discuss individualized questions or concerns regarding sexual violence.
- All available options for reporting incidents of sexual violence or concerns related to sexual violence. This should also include options for anonymous reporting.
- On-campus and off-campus resources available to support students who have been the target of sexual violence.

Program Effectiveness

The task force identified current prevention and educational programming efforts, including all orientation, extended orientation, on-line modules, peer group involvement/presentations, and other direct delivery of educational messages and services. Our results indicate further work is needed in this area, to include: more detailed research on effectiveness, comparison to the most recent best practices according to industry standards as some of our practices seem to have been surpassed, more detailed review of gaps or duplication of information across all programming, educational program presenter qualifications, and examination of proper resource allocation for programming.

For example, our discussions indicate that the current configuration of peer groups may be outdated based on review of more current practices. Further review of this area may lead to restructuring current peer groups to form more current, effective and consistent messages; presenter qualifications; and presentation styles. We recommend:

- (1) **Evaluate the effectiveness of existing and future educational programming.** All existing and future educational programs on sexual violence issues should be assessed on an ongoing basis for effectiveness. The initial assessment for effectiveness should include all current educational programs for first year students. The Virginia Task Force on Combatting Sexual Violence recommended a

state-based small grants program to fund research and evaluation for sexual and gender-based violence prevention to assist in the development of evidence-based practices. W&M should consider this possible funding source for evaluating our educational and other prevention programming.

(2) Identify effectiveness measurement options and incorporate them into new programming. As programs are revised or new programs added, assessment measures for effectiveness should be part of the program planning and implementation. Measures to consider: the number of students completing the program, learning outcomes, comparison data to other similar programs at the state and national level, and student participant feedback on perceived effectiveness. *W&M should also monitor any developments in evidence-based practices related to education and prevention programming. Measurement for effectiveness should mirror these developments.*

Educational Model

The current educational model places a heavy emphasis on first-year student programming. Emphasis on education and prevention efforts through the orientation period is necessary and timely given the known elevated risk factors in the first semester of the college experience. However, we also know that students become overwhelmed with information and absorb only a small fraction of material presented to them in these orientation efforts. It is not enough to say we provided this initial information. It is incumbent upon us to expand our efforts throughout the year to provide consistent information over the course of time and multiple exposures.

Information gleaned from surveys, focus groups, and the forum, suggest that current W&M students lack knowledge and understanding of the following subject matter:

- Definition of rape and other relevant laws.
- Definition of consent, including relevant cases that have been decided.
- Prevention intervention strategies, such as Bystander Intervention.
- Available support and services for victims.
- Reporting processes and specific steps to take.

This subject matter must be included in the first-year student experience and considered for refresher information programming in returning years. Currently, there is no requirement for refresher, update, or advanced programming for returning students. Given that students described information on these topics as still inaccessible or lacking, the model of one and done programming should be reconsidered. Returning students need on-going programming designed to refresh/reinforce core information; to communicate changes to policies, regulations, and laws; and to allow more in-depth discussion about the issues as experienced on campus. We recommend:

- (1) **Rework the current educational model which places a heavy emphasis on first-year students.** William & Mary should rework the educational model for students around sexual violence issues. This applies to the first year student experience, the returning student experience, and content areas related to the nature of sexual violence. The new model should consider on-going required and optional programming for every year of the W&M student experience.
- (2) **Design first-year programming to be a year-long effort.** Required education and prevention programs for the first-year student should be properly planned, prioritized, and delivered as multiple interventions throughout the entire first academic year.
- (3) **Consider a required first-year course as an addition to the new COLL curriculum.** The subcommittee discussed the possibility of a required class to be incorporated into the curriculum for first year students. We understand that a new class requires extensive consideration and planning. If considered, this class could provide:
- A mechanism for addressing the number of needed topics around the issue of sexual violence over time, allowing students to absorb and process the subject matter in relationship to their own developing experiences on campus.
 - A safe place for facilitated meaningful dialogue among students about personal experiences and cultural issues that intersect the state of sexual violence in a community.
 - Assurance that all incoming students receive consistent information and opportunities to discuss questions and concerns
 - The ongoing framework to address developing changes in federal and state laws about sexual violence issues that impact our educational requirements, processes, or our students.
 - A centralized process for documenting educational subject matter about sexual violence delivered to all incoming W&M students.
- (4) **Implement effective educational programming for returning students.** W&M should design a more robust model for returning student programming on this topic to include refresher information; updated changes to policies, regulations, and laws; and more advanced programming to allow more in-depth discussion about the issues as experienced on campus. We should provide a wider spectrum of program options and modalities, allowing the returning students to choose specific programming that addresses their current needs, schedule, and learning preferences. Programming choices should ensure that the student body and any identified subpopulations believe that programs are accessible, inclusive, and relevant. Considerations to vary program options by factors, such as:
- Educator/Facilitator – Options for peer and/or professional presenters.

- Platform – Options for program structure and delivery methods: formal class structure, informal workshop, multiple seminar format, lecture, illustration, demonstration, case study, discussion, role play/simulation, and/or practical application.
- Size – Options for programs that vary by the number of participants allowed per session, allowing students to choose their preference for participating with smaller or larger groups, if desired.
- Composition – Options for programs that address general or more specific issues for identified subpopulations: varsity athletics, sororities, fraternities, LGBTQ, and others

(5) **Broaden our educational approach to include cultural issues that intersect with and affect the state of sexual violence in the community.** W&M needs to broaden the approach to education and prevention programming to address the number of cultural issues that intersect the state of sexual violence in the community. Effective education about sexual violence cannot be studied, nor contemplated in a vacuum. There are a number of cultural issues that intersect the state of sexual violence in a community. W&M students identified some of these issues as: alcohol and other drug use, gender identity, healthy romantic and sexual relationships, self-worth, racial issues, and mental health.

Special Populations

The campus climate survey administered by the task force identified special student populations at greater risk of becoming involved in sexual violence than the student body overall. Specifically, the sorority and fraternity populations reported incidences at a significantly higher rate than the general student body. This finding, along with the fact that new students are most vulnerable to victimization during their first semester of college, raised concern about the practice of allowing sorority and fraternity membership early in the first year. The first-year experience at W&M presents incoming students with many challenges. New students need time to:

- Participate in sexual violence education and prevention efforts.
- Adjust to the rigors of W&M academic demands.
- Grow into their new independent living situation.
- Develop increased self-confidence and self-awareness.
- Learn what it means to be a member of the greater W&M student community.

We recommend:

(1) **Enhance targeted efforts towards high-risk populations.** W&M should increase targeted education, programming efforts, and university policies designed to reduce

risk to those student populations experiencing significantly higher incidents of sexual assaults and violent behavior.

- (2) **Evaluate the time frame allowed for new students to join a sorority or a fraternity.** W&M should review the current practice of allowing freshman students to join the fraternity and sorority community so early in their first year.

Screening Process

Universities across the country work to identify and admit students that are likely to thrive in their particular college environment. As concerns about college safety have increased through the years, so has the debate on what background or behavioral factors should be considered in this process. To date, there is no definitive formula for identifying and deterring potentially assaultive or violent students. However, an increasing number of Universities now review criminal history information and past student code of conduct violations to help form a more comprehensive view of an applicant's behavioral background.

Universities like William & Mary that use the Common Application process already ask an applicant for information relating to both criminal history and past school disciplinary records. We are able to review the information disclosed by the applicant to determine if additional information is needed. Additionally, certain states (most recently Virginia), have enacted legislation requiring colleges and universities to record certain code of conduct violations on student transcripts to better inform other schools that may be considering the student for transfer or admission. However, not all states have this requirement.

We recommend:

- (1) **Continue to consider criminal history and school disciplinary records as factors in Admissions.** William & Mary should continue to request applicant information regarding criminal history and school disciplinary records. This process and associated protocols should be continually reviewed and revised based on experience and industry best practices. It may be beneficial to test the current self-reported database against official criminal history information and certified school records, to better inform us on the historical accuracy of this data.

Other Deterrence Considerations

William & Mary has a full-time police department that provides the full spectrum of policing: community education, prevention, patrol, investigations, emergency communications, and apprehension. The police department works closely with the Office of Compliance and the Division of Student Affairs in efforts to deter, detect, and investigate acts of sexual violence on campus. As stated earlier, the State Task Force recommended

that law enforcement prevention efforts should be part of the coordinated campus and community sexual assault prevention plan. We recommend the efforts include:

- (1) **Enhance crime prevention through environmental design efforts.** W&M Police identify environmental conditions that can be addressed to reduce or eliminate crimes of opportunity related to sexual violence. They already have 1 crime prevention specialist and that should be expanded to 2 specialists, if possible. We recommend that police continue to emphasize crime prevention through environment design, and that this process should be informed via an annual campus safety walk. Suggested improvements to conditions may include items, such as lighting or monitoring trails.
- (2) **Educate students about the laws, legal process, and availability of support from W&M Police.** W&M Police officers should continue to work collaboratively with Student Affairs to ensure students know the relevant laws, reporting processes, and availability of support from campus police officers. The content and timing for first-year student presentations should be reviewed and increased. This effort is already underway with renewed involvement in first-year orientation.
- (3) **Increase reporting and likelihood of consequences for violations of law and/or the Student Code of Conduct.** Crime prevention research affirms that an increased likelihood of a perpetrator's being identified and receiving consequences has some deterrent effect. W&M Police and others across campus should continue working to encourage victims of sexual violence to report these incidents, ensure violators are identified, and support processes (criminal and student code of conduct) that bring consequences to the offending party. To this end we believe the police department and others responsible for investigating these types of cases should continue receiving specialized training and annual updates in this area.

APPENDIX J

Subcommittee Report – Faculty & Staff Training

Report from the Faculty/Staff Training Subcommittee

*President's Task Force on the Prevention of Sexual Assault & Harassment
Spring 2015*

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Committee Charge

The charge to the subcommittee was as follows:

Examine best practices and avenues for delivering training for faculty and staff. The task force's report should include recommendations for training to ensure legal compliance and to meet broader institutional goals.

Members

The subcommittee consisted of a total of nine members, including students, staff, and faculty. Members are listed below in alphabetical order.

Babs Bengston	Director, Training and Development, Human Resources
Carla Costello	Senior Administrative Assistant, Office of the President
David Dessler	Associate Professor, Government; President, Faculty Assembly
Chon Glover (chair)	Chief Diversity Officer
Helen Murphy	Assistant Professor, Biology
Jennifer Putzi	Associate Professor, English and Women's Studies
Radha Yerramilli	Undergraduate Student, Class of 2016

Activities

- (1) Worked closely with Faculty Assembly on the roll-out of training to get their support. Held a meeting with Q&A the day before the training was launched. (See Appendix A)
- (2) With presidential approval and support, instituted mandatory training for all faculty and staff.
- (3) Worked throughout Fall 2015 to find and set up the training module with W&M's Information Technology team and Workplace Answers
- (4) Secured funding for training module (\$14,995.00).
- (5) Reached 100 percent participation of faculty (full-time/part-time/adjunct) and staff (professional/operational).
- (6) Without a mandatory requirement, 1835 people completed the Unlawful Harassment course that was an optional part of the training.

Recommendations

1. Shift oversight of faculty/staff training to the Office of Compliance & Policy.
2. Conduct mandatory campus-wide training every two years.

3. Create a more goal-oriented training that is specific to W&M. There was strong sentiment that the training module did not meet expectations. (Feedback suggested the training was “too easy,” “not serious enough,” “too superficial,” and “too cartoonish.”) Future training should be divided into two sections: (1) education/training, and (2) campus and community resources.
4. Determine how mandatory training will be delivered in 2017 (i.e. Workplace Answers **expires** June 30, 2015). Determine how new employees will get training from June 30, 2015 until the next mandatory training. Funding must be designated to support the training efforts.
 - a. Provide advanced training (20+ hours) for faculty who are interested in learning about protocol, processes and adjudication. The faculty would be listed on the website as resources. Consider allowing this designated group of faculty to be “confidential resources.” Faculty who complete the 20+ hour training could display a sticker for identification outside office door (i.e. Safe Zone).
 - b. In the off year, sponsor quarterly lunches with timely topics: (i.e. training sessions for faculty on effective communication and decorum with students)
 - c. Provide time for staff in Facilities Management to complete the training in campus computer labs. Many employees in Facilities Management work in areas without easy computer access, and many also lack internet access at home. It is essential that these employees be given the resources (time and equipment) to complete the training as required by the university.
5. Update the Title IX website to provide more direct navigation and easier access to information. Have a tab for Faculty Resources in Banner/MyWM. In this folder would be quick access to the resources needed (charts, how-to, effective communications brochure, processes/protocol).
6. Sponsor a forum to explain to students what “confidentiality” means and how it relates to faculty and staff. Students should understand the role of their faculty members before a situation or crisis occurs. Alternatively, the Vice President for Student Affairs might send out an email to students at the beginning of school year explaining this and other resources.
7. Include graduate/teaching assistants, and other non-faculty academic partners in mandatory training (e.g., alumni who serve as co-advisors on honors theses).
8. Provide volunteers who work directly with students (e.g., alumni who serve as interviewers) an opportunity to take the training. They would receive the information during their orientation.

- 9.** Ensure the list of W&M employees is kept up-to-date. An accurate list of employees is critical for the implementation of the next mandatory training. Corinne Picataggi, Director of Software Systems in Information Technology, and John Poma, Chief Human Resources Officer, should be involved in discussions about how to accomplish this.
- 10.** Strongly encourage members of the Board of Visitors to complete the online or in-person training.
- 11.** Display posters that describe the process of making a report (e.g., in residence halls, Sadler Center, Swem, W&M Hall, and graduate/professional schools).
- 12.** During the next mandatory training, consider providing in-person training or create a webinar for employees at VIMS.
- 13.** Provide additional training to faculty who will lead study abroad trips. This training should include information about how W&M policy applies abroad, as well as country-specific information about legal considerations related to sexual assault.

Appendix A: Communication from Provost on Pre-Training Launch for Faculty

From: Glover, Fanchon
Sent: Monday, January 19, 2015 10:02 PM
To: David Dessler
Subject: Re: Update

Thanks much David. Here is the message. Please let me know if you have feedback.

Chon

Colleagues,

Next week, all faculty and staff will receive an email from the president indicating the launch of our campus-wide training on Title IX and Preventing Harassment. The Title IX training will be required of all members of our community and will be offered in two formats: on-line module or in-person training.

Based upon conversations with members of the Faculty Assembly, we realized there might be questions or misunderstandings regarding the role and responsibilities of faculty in assisting students. Before the training is launched, there will be an open forum for faculty on Thursday, January 29 at 3:30 pm in Chesapeake Room C. You are invited to attend this information session that will clear up any questions regarding the upcoming required training. Members of the President's Task Force and Kiersten Boyce, Title IX Coordinator will be in attendance. In advance of your attending the forum, please click this link to participate in our pre-training assessment. [Insert link from Jodi Fisler].

I hope to see you there.

Best,
Michael

Appendix B: Message to the Community: re: Mandatory Title IX Training

Sent: January 30, 2015

From: faculty-request@lists.wm.edu [<mailto:faculty-request@lists.wm.edu>] **On Behalf Of** Taylor Reveley **Sent:** Friday, January 30, 2015 10:01 AM **To:** 'faculty@wm.edu'; 'staff@wm.edu' **Subject:** [faculty_send] Title IX Training

Dear Colleagues,

The national conversation about sexual violence on campuses continues at colleges and universities across the country, in the national and local media, and among political leaders. It is a sharp focus of concern during the ongoing session of Virginia's General Assembly.

Every college and university, William & Mary included, needs to provide an environment in which all members of the campus community learn, live and work without fear of sexual violence or sexual harassment.

Faculty and staff members at William & Mary are often the most trusted advisers for our students. Thus, it is essential that each of us be trained to support those W&M students who confront sexual violence or harassment, as well as any other sort of harassment. We also need to be aware of other ways in which we can help ensure that W&M remains a supportive, harassment-free environment for faculty and staff. The university will offer the requisite training, which includes two courses: (1) Title IX: Preventing Sexual Violence, and (2) Unlawful Discrimination, Harassment, and Retaliation. The former is required, the latter strongly encouraged.

To ensure the effective delivery of information in the Title IX training, in addition to the online module, we will also offer two in-person sessions, led by Kiersten Boyce, the university's Title IX coordinator. These will be held on February 18 at 10:00 a.m. in Chesapeake A, and February 26 at 2:00 p.m. in Chesapeake C. If any

among us do not complete either the online or in-person Title IX training, remedial action will be taken, initially by email reminders. In due course, we will have an opportunity to comment on the adequacy of the training.

Shortly, each of us will receive a registration email from Workplace Answers eLearning [training@workplaceanswers.com] with our personal quick link to the training, which can be taken on any computer with internet access. It is fine to save this email or copy the link to favorites, but we should not share our personal quick link with anyone else. If trouble arises getting to the training, help is available from Chon Glover, Chief Diversity Officer, atwfglov@wm.edu or 221-7940.

Thanks to us all for taking the training.

Taylor Reveley

Appendix C: Examples of Training Slides from Workplace Answers

Launch Training

PREVENTING DISCRIMINATION AND SEXUAL VIOLENCE: Title IX, VAWA and Clery Act for Faculty and Staff



Preventing Discrimination and Sexual Violence: Title IX, VAWA and Clery Act for Faculty and Staff

Policy Ask Contents Glossary My Training



THANK YOU FOR JOINING US!

Congratulations! You've completed the course!

If you still have any questions about William & Mary's VAWA, Clery Act or Title IX related policies, contact the administration.

[Click here to receive your Certificate of Completion.](#)
[Click here to view a selected bibliography of this course.](#)

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Preventing Discrimination and Sexual Violence: Title IX, VAWA and Clery Act for Faculty and Staff

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Campus Security Reports

In the required Annual Security Report, campus security authorities (CSAs) must develop and include statistics for crimes of sexual assault, dating violence, domestic violence and stalking reported to CSAs or local police, as these crimes are defined by the Violence Against Women Act, Annual Security Report. [Click here to review the Annual Security Report.](#)

The annual security report must also include a policy statement about programs to prevent such crimes and the procedures to be followed when such crimes are reported. These reporting requirements and additional responsibilities of CSAs are beyond the scope of this training module.

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Faculty and Staff Responsibilities

Unless an exception applies, faculty and staff who have observed or received reports of sexual harassment, sexual violence, domestic violence, dating violence, sexual assault or stalking must:

- Notify our Title IX coordinator or other appropriate school designee or our Campus Police, as explained in the following pages. In addition, a report may be made to the local police or other local law enforcement, depending on the circumstances.



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POLICY ACCEPTANCE

Review William & Mary's policies.

I, Wandalyn Glover, acknowledge that I have received training regarding William & Mary's policies and I hereby certify that I have read, understood and will comply with the policies. I understand that a breach of William & Mary's policies may result in discipline.

Policy reviewed and acknowledged by Wandalyn Glover on Wednesday, February 18, 2015 at 12:37:59 PM CST

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How to File a Complaint

William & Mary has jurisdiction over complaints involving harassment, discrimination, sexual violence, dating violence, domestic violence and stalking pursuant to Title IX and the Clery Act. Title IX requires covered schools to have a policy against sex discrimination, to have a Title IX coordinator and to adopt and publish grievance procedures. Through VAWA and the Clery Act, covered schools also must investigate all complaints.

Our Title IX Coordinator: Kiersten Boyce, Title IX Coordinator



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Details on Confidentiality

Confidentiality is a sensitive and important issue. Typically, William & Mary keeps reports confidential as much as possible. As part of achieving this, the victim's name and other personally identifiable information will not usually be disclosed, except as is necessary for the investigation. The requirements for confidentiality, although heavily weighted, are determined on a case by case basis to fit the unique needs of the investigation. In addition, publicly available records, if any, related to a report and investigation will not usually include a name or personally identifiable information.



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Campus Contacts

Kiersten Boyce, Title IX Coordinator
150 James Blair Hall
(757) 221-3146
kboyce@wm.edu

Marjorie Thomas, Dean of Students
129 Campus Center
(757) 221-2510
mthomas@wm.edu



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Appendix D: Post-Training Communication with Links from Title IX Coordinator

From the Provost:

Colleagues,

By now, you all should have completed the mandatory training on Title IX and Sexual Violence, either by taking the online training or attending one of the sessions with our Title IX Coordinator. (If you are one of the very few who have not completed the training, you will be hearing directly from me or the President.)

I am writing to encourage you to now take the post-training assessment. Your participation in the assessment will allow us to measure the efficacy of the training and will provide you with some information, in the answers to the questions posed in the assessment. Your participation is anonymous and you will not be graded.

To take the assessment, follow this

link: https://wmsurveys.qualtrics.com/SE/?SID=SV_cMUYYVcosgyShoX3

I also will take this opportunity to remind you of important resources available:

A pamphlet with guidelines on how to work with a student reporting sexual assault/harassment is being disseminated around campus, and the content is available online:

http://www.wm.edu/offices/compliance/title_ix_coord/staff_response/index.php **Please take a moment to visit and bookmark this site.**

Information about how to report sexual violence and harassment and how reports are handled is provided here www.wm.edu/titleix/report

FAQs for faculty and staff about sexual harassment and assault are available online as well: www.wm.edu/titleix/guidance .

Thank you for your attention to this.

APPENDIX K

Subcommittee Report – Investigation & Adjudication

Report from the Investigation/Adjudication Subcommittee

*President’s Task Force on the Prevention of Sexual Assault & Harassment
Spring 2015*

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Committee Charge

The charge to the subcommittee was as follows:

Within the context of compliance obligations and the university's goals of prompt and equitable response to complaints, examine our current practices and procedures for investigating and adjudicating allegations of sexual assault and harassment. Make recommendations regarding investigation and adjudication to whatever extent you find appropriate.

Members

The subcommittee consisted of a total of four members, including students, staff, and faculty. Members are listed below in alphabetical order.

Kiersten Boyce..... Title IX Coordinator

Dave Gilbert (chair) Associate Dean of Students and Director of Student Conduct

Mallory Tucker Undergraduate, Class of 2015

Cynthia Ward..... Professor, School of Law

Introduction

The landscape of Title IX has evolved considerably in the last several years, both at the national and local level. With the increased understanding of Title IX by students, the prominence of national dialogue and debate, and the increased efforts of education and awareness at the institutional level, the university has seen a significant increase in reports and adjudications. For example, during a recent five-year span, the College averaged one adjudication per year related to Title IX, whereas last year, the university adjudicated 7 cases, and this year we are on track to adjudicate 12 cases (these numbers do not include reports that resulted only in remedial action or those in which the reporting party sought no action). We also saw an increased number of reports of faculty sexual harassment, which also is within the jurisdiction of Title IX. We expect these numbers to continue to increase as students become more aware of their rights and options and, it is our hope, have more confidence in the university's resolution procedures.

In addition, scrutiny has increased substantially. The Office of Civil Rights is currently investigating over 100 institutions, including William & Mary. Students and parents are more aware of the issues surrounding sexual assault on campus, and suspicion abounds from both reporting parties and students accused of assault or harassment. Anecdotally, the College has experienced more attorney involvement, and in matters with such high stakes, it stands to reason that we will continue to experience more attorneys interfacing with our processes.

The subcommittee has worked diligently to educate itself as to the issues related to Title IX, our policies and procedures and their relevant strengths and weaknesses, and current trends and evolving practices within the field of Title IX investigation and adjudication. In February of 2015, the subcommittee's recommendations for mid-year policy and procedure changes were approved by the President. We have continued our work and anticipate that it will need to continue beyond the June 30th deadline established by the President for this report.

Background Information

As shown in the chart in Appendix C, many university offices are involved in sexual misconduct investigation and adjudication work. The primary office is the Dean of Students Office, with key

functions performed by the Office of Student Conduct within the Dean of Students Office. The Office of Compliance & Policy, headed by the Title IX Coordinator, is also closely involved.

William & Mary has three procedures used for investigating and adjudicating sexual harassment and assault reports/complaints. The existence of three procedures reflects the traditional or historic conception of discrimination/harassment reports as primarily a disciplinary matter -- the identity of the person(s) accused or reported or suspected as having engaged in misconduct dictates which procedure is used. The subcommittee focused on the student procedure – that is, the procedure used to investigate and adjudicate reports or complaints alleging that a student engaged in sexual misconduct. This is the procedure most commonly used for student Title IX complaints/reports.

The procedure, as amended in February 2015, anticipates initial intake and interim actions by the Dean of Students, an investigation by Dean of Students or Compliance & Policy Office staff, a decision by the Dean of Students in consultation with the Title IX Coordinator as to which allegations to proceed forward, and either administrative resolution by the Student Conduct Office or a hearing coordinated by that Office. There is a right of appeal to the Provost.

The Office of Student Conduct is responsible for many sensitive functions, including maintaining and publishing the Student Handbook, educating students as to behavioral expectations, receiving and administering 500-800 student conduct reports annually, advising and providing administrative support to the six honor councils, and training a number of boards including the student conduct council, the sexual misconduct board, the appeals committee, the honor councils, and the IFC Conduct Board. The office is presently staffed by only two full-time professionals, both of whom also are members of the Dean of Students staff and therefore responsible for providing general student support, responding to student needs and crises, and serving as members of the on-call rotation. The Director serves as one of three Deans on the Dean of Students Management Team and is responsible for Dean of Students staff training and development and process management. The Director also serves on the CARE Team, the Honor System Advisory Committee and the Hazing Prevention Committee, and is the Dean's back up to the Campus Assessment and Intervention Team. With respect to sexual misconduct, the Office is responsible for training panel members and advisors, conducting investigations (with the Office of Compliance & Policy, which also provides investigators), determining the method of resolution and conducting administrative resolutions, preparing for and coordinating hearings, responding to student and attorney complaints and concerns, drafting and disseminating required notifications, and coordinating appeals.

The Office of Compliance & Policy manages the university's compliance and ethics program. It also has direct responsibility for discrimination and harassment prevention and response work. With respect to sexual misconduct, the Office (particularly the Title IX Coordinator) has overall responsibility for Title IX compliance, producing and disseminating Title IX-related policies and procedures, ensuring adequate training of investigators and others involved in adjudicating complaints, conducting investigations (in cooperation with Dean of Students), coordinating production of the annual Campus Safety Report (under the Clery Act), educating faculty and staff on their duties as "responsible employees" and Campus Security Authorities, convening the Title IX review team as required by Virginia law, and advising the Provost on appeals. The Title IX Coordinator must be informed of all reports/complaints of sexual misconduct relating to students and is responsible for coordinating the institution's response to all such complaints. She also is responsible for identifying and addressing patterns and problems, including those relating to climate. **For more information, see April 2015 Dear Colleague Letter, Office of Civil Rights.** (Final Report Appendix G)

The Compliance & Policy Office has three professional staff members: the Title IX Coordinator, Deputy Title IX Coordinator, and a recently-hired Compliance & Title IX investigator, beginning work on June 25, 2015. The Title IX Coordinators are J.D.s and have received formal training in Title IX.

Resolution Models

The subcommittee spent considerable time reviewing and familiarizing itself with the current “hybrid” model, which relies on a vigorous investigation by trained investigators and a hearing before a panel if the matter is not resolved via Administrative Resolution. In May and June, the subcommittee considered the viability of other models of resolution. Other available models include what is known as a “civil rights investigation model” and a “hearing” model.

In the civil rights investigation model, the investigators determine the facts and violations after concluding the investigation; this model does not rely on a “hearing” to determine ultimately whether the policy was violated. In alternative forms of the model, there may be some form of hearing either to finalize or test on appeal the investigators’ findings, or the fact-finder may be someone other than the investigator, such as another administrator. (This latter alternative is used by William & Mary for employee matters.) This model is common in the employment context, and a number of institutions are moving towards it for student matters.

In the pure hearing model, the hearing serves as a venue for eliciting facts and information, testing that information, and determining whether violations have occurred. While the most efficient of the models, the hearing model has major drawbacks, including lack of ability to test information through an iterative process and lengthy (and often incomplete or inconclusive) hearings. Perhaps because the Office of Civil Rights expects schools to conduct an investigation in response to a complaint, pure hearing models are no longer as common.

The hybrid model arguably is the most resource-intensive model. The resource demands have become more apparent as the number of incidents processed through the model increased. Our student Title-IX related caseload has grown from an average of one adjudication per year just a few years ago to twelve in the most recent year. The current iteration of the “hybrid” model has strained the existing resources available in the Office of Student Conduct as well as those of the Office of Compliance & Policy, which began assisting directly in investigations to help manage caseload.

The hybrid model requires a number of well-trained investigators, case administrators, panel members and advisors, and appellate reviewers.

Investigators and case administrators

The hybrid model requires a thorough, competent and efficient investigation conducted by well-trained professionals. An effective investigator must possess a number of traits/skills, including a fair, open-minded, problem-solving disposition, resourcefulness, excellent written and oral communication skills, effective listening, an understanding of how to evaluate behavior/demeanor, and ability to work with partners on tight deadlines. Investigators must also be trained in investigation techniques and have expert knowledge of applicable policies and procedures. Investigations must formulate initial areas of inquiry based on appropriate policies/laws, gather information, formulate initial questions, conduct interviews, and write draft and final reports. In the current models, these reports do not include findings but rather present evidence collected, identify potentially-implicated policy provisions, and describe disputed assertions. Effective investigators are also viewed by their subjects as fair, open, and as not pursuing a predetermined agenda.

Currently, the university has three trained investigators—Dave Gilbert, Kiersten Boyce and Pamela Mason. The university has recently hired an additional investigator, who is new to the field and will require training and experience shadowing senior investigators prior to being able to handle cases independently (without a second, senior investigator).

The current model also requires a case administrator, who determines which adjudication model is appropriate, conducts administrative resolutions (with parties' consent), and prepares for and coordinates the hearing. This includes working with parties and their lawyers to provide them with access or copies of investigation reports and other evidence and responding to attorney complaints and requests, such as requests for redaction. The case administrator advises the hearing panel in their deliberations and assists in documenting their rationale, as required by federal law. The case administrator must be an expert in the policy and procedure, must be trained in Title IX and in complaint resolution, must be fair and professional, and must be capable of responding in real time to legal objections and complaints. This role has become increasingly sensitive and labor-intensive. Dave Gilbert, Director of Student Conduct, is the case administrator.

Dean Gilbert's role as investigator on student sexual misconduct cases has raised the concern of a perceived conflict of interest, as he also serves as case administrator and trains and advises the hearing officers and advisors. The committee asserts that it is sub-optimal to have Dean Gilbert retain so many roles within the process, as the respondent, in particular, may view this arrangement as unfair. The Dean of Students Office's intent is to shift the investigation duties fully to Compliance & Policy Office staff.

The Compliance & Policy Office currently has two trained investigators and is training a third. One investigator is Kiersten Boyce, who is also the Title IX Coordinator. The U.S. Department of Education has recommended that the Title IX Coordinator be a full-time position. Ms. Boyce is also the ADA/Section 504 Coordinator and the Chief Compliance Officer. Ms. Boyce also currently serves as advisor to the Provost for appeals. For Ms. Boyce to act as an investigator raises questions about perceived conflict of interest and compromises her ability to fulfill other Title IX Coordinator duties.

Panel members and advisors

Currently the university has a group of approximately ten Student Affairs administrators who serve as panel members or, alternatively, as advisors to the parties. These roles require extensive training, and ideally, experience in order to comply with the law and to ensure the functions are performed appropriately. To date it has proved difficult to ensure that the panel members receive this ongoing training. There are challenges both in providing the training to the panel members, due to the cost or staff time involved, and in ensuring that the panel members complete the training, due to the panel members' primary professional responsibilities. These professionals have been generous with their time; however, given the evolving laws, policies and expectations within the realm of Title IX, and given the increased scrutiny we, and all universities, will face in the future, it will be necessary to provide adequate resources to train and compensate these individuals, should we retain the current model.

The present level of professional staffing does not support the current model and caseload and is not sustainable in the long term.

Recommendations

Resolution Model Recommendations

- 1. Determine the appropriate model to be used in the resolution of student sexual misconduct incidents.** The subcommittee was divided as to whether to recommend a change to the current hybrid model used to resolve student incidents of sexual misconduct. Two members favor moving to the civil rights investigation model. One member favored further study before adopting an alternative model—this member believes that the current model has important value in the process and should presumptively be retained unless further study reveals that the model is fundamentally flawed. The fourth member also recommends further study and input, particularly from students, before deciding what model is most advisable—this member indicated that if the university cannot adequately resource the present hybrid model, the university should consider moving to the civil rights investigative model with a panel making final determinations as to violations.

Note that many institutions are in the midst of similar discussions, and therefore it has proven challenging to determine best practices or to evaluate other institutions' experiences with alternative models.

- 2. Evaluate whether one model can be used to resolve all complaints of sexual harassment/misconduct.** The committee recommends further study of these issues and consideration as to whether the process used for student-on-student complaints also could be used to resolve complaints/reports against faculty or staff.

If the university were to retain the present hybrid model, it must address the following concerns:

- 1. Provide sufficient personnel and other resources to ensure that we can conduct fair, prompt, and thorough Title IX complaint resolution while also attending to the core functions of the Offices of Student Conduct, the Dean of Students, and Compliance & Policy, including oversight of Title IX prevention, education, and remediation efforts.** We submit that current staffing (including the new Compliance & Title IX Investigator position) will prove inadequate to address the increased case load and provide for the separation of roles necessary to ensure that the system functions fairly and, just as important, is perceived as fair. To ensure timely processing of complaints and provide the separation of roles, the Dean of Students proposes shifting all investigations to the Office of Compliance & Policy. In addition, the Title IX Coordinator's role in directly handling investigations (e.g., conducting interviews) should be eliminated or significantly reduced to allow her to oversee investigations and perform other Title IX Coordinator duties. These changes will require additional staff, as the Deputy Title IX Coordinator and new investigator will be unable to handle the Title IX case load in addition to the other (employment) complaints and other work of the Office. An additional position should be created in the Dean of Students Office as well, to assist with the training and case administration duties and allow the Director of Student Conduct to focus adequately on the other aspects of that office's work and his responsibilities as a member of the Dean of Students senior staff.
- 2. Require rigorous and sustained training of all members with responsibility within the system including investigators, advisors, hearing panel members, and appellate review authorities.** To comply with law (the Clery Act as well as OCR guidance require training for

staff involved in investigations), this training must consist, at a minimum, of a lengthy initial training, ongoing scenario-based training, training on evolving trends and techniques for resolution, and a sharing of outcomes within the entire system. While some training may be developed and provided by university staff persons, there must also be funding for staff to participate in training provided by outside experts.

- 3. Compensate hearing panel members and advisors for their time and service with stipends, recognition leave, or other appropriate forms of compensation.** We must move away from over-reliance on volunteerism to run what has become a significantly risk-laden process. Members must commit themselves to put in the time required for training and involvement, and the university must make this service a professional obligation with attendant compensation. This will also help ensure accountability.
- 4. Designate a group of faculty and administrators to serve as designated advisors to the reporting party and respondent, respectively.** The advisor role is a specialized one, but currently advisors are trained and grouped together with panelists. Separating the roles would keep the panel members focused on service as panelists and allow each group to receive focused training and experience necessary to master their roles.

Policy Recommendations

- 1. Modify the explanation of consent. The committee recommends further study of other models/explanations of consent in order to improve the current explanation offered in the Student Code of Conduct.**
- 2. Modify the definition of incapacitation.** The committee has proposed new language that we assert will improve upon the current definition.
- 3. Require the decision-maker to consider state of mind for stalking allegations.** The committee was concerned that the current definition of stalking could inadvertently capture behavior that was not intended (for example, a student who does not pick up on social cues due to a neurological disability). We recommend that the panel and hearing officers be trained and advised as to the impact of neurological disability and how this may impact intent when considering when the policy is violated and how to sanction in such cases.
- 4. Explain how the types of misconduct covered by the policy relate to sexual assault and sexual violence as defined by law.** The current policy does not use the terms “sexual assault” or “sexual violence.” Because these terms are used in federal and state law and trigger important actions, and because they are terms that students may be familiar with and look for, the policy should explain how the law related to W&M’s own policy. Please see the attached policy document for more detail.
- 5. Clarify and expand situations in which other incidents of sexual misconduct may be considered.** Research indicates that a large portion of campus assault is perpetrated by a relatively small number of offenders (see research of David Lisak who found the average number of offenses per offender was eight); therefore, it is likely that the College will face the eventuality that it will receive multiple reports of misconduct by the same offender. We also are aware that harassing behavior is often not limited to one victim, nor is it time-limited. The current language in W&M’s policy has proved to have the unintended effect of limiting the introduction or

consideration of other incidents or events relating to the respondent to a greater degree than those relating to the reporting party. The Committee recommends that the policy be revised to clarify the situations in which past sexual activity or other incidents may be considered.

6. *Recommended by Title IX Coordinator but not decided by entire subcommittee:* **Expand policy to cover (apply to) faculty and staff, in order to comply with the Clery Act.** The Violence Against Woman Act, which amended the Clery Act, requires that institutions have policies that apply to employees and prohibit and specifically define dating and domestic violence, stalking, and sexual assault. The Title IX Coordinator proposes posting the revised policy for notice and comment prior to such expansion.

Sanctions Recommendations

1. **Retain the current minimum sanction of two semesters' suspension for non-consensual sexual intercourse;** however, the university must emphasize that in some cases, dismissal would be appropriate—in cases with evidence of force, use of date rape drugs, prior history of violence, predatory behavior, etc. *Note that this minimum sanction was increased from one semester to two full semesters in the February 2015 revisions recommended by this subcommittee.*
2. **Emphasize that the typical practice is to suspend for the duration of the other student's enrollment at W&M and that readmission will not occur until satisfactory completion of all secondary sanctions.**

See attached proposed draft revised Policy on Sexual Harassment and Misconduct, Dating and Domestic Violence, and Stalking.

Procedural Recommendations

1. **Modify the current panel composition to include a faculty member.** We maintain that dedicated and well-trained faculty members can provide a perspective that is currently not represented.
2. **Define a hearing panel as consisting of two administrators and one faculty member with an optional *ex-officio* student member who can bring a student perspective to the process.** The committee values the perspective students can offer to the process, including providing insight into current social mores and climate. However, retaining students as voting panelists who are well-trained, seasoned and who possess the requisite maturity to take on the responsibility of hearing these high-stakes cases is always a challenge, particularly given the high turnover in our student population.

As importantly, in the context of the current climate regarding Title IX adjudications, it is apparent that we can expect the increased involvement of attorneys and the possibility of increased risk of litigation. The committee is concerned that retaining students in the position of decision-maker subjects them to undue pressure and may affect the process.

3. **Define/clarify the case administrator's role** to make clear that the case administrator (CA) serves the following purposes:
 - Coordinate the hearing
 - Advise the panel as to policy and practice

- Assist the panel in questioning
- Assist the panel in deliberations and the documentation of the outcome (judgment and sanctions)

As mentioned previously, the case administrator should avoid investigating a case on which the CA is serving, as this provides the perception of a conflict of interest. To the extent possible, the CA should be free to oversee the progress of the adjudication process and provide the panel with advice and guidance. The CA should not be aligned with either party; therefore, it is imperative that the College develop appropriate advisors to serve each party throughout the process.

4. Modify the role of advisor to allow the advisor of the student's choice. Clarify and limit the role of advisor to speak on the student's behalf or participate in any hearing or meeting.

The VAWA regulations provide that students can have the assistance of the advisor of their choice, without limitation, in investigation and adjudication of VAWA offenses (sexual assault, dating and domestic violence, and stalking). The subcommittee recommends that we modify the role of advisor to allow advisors to accompany students to interviews as well as procedural meetings. Because attorneys may serve in the capacity of advisor, should the student choose, the subcommittee recommends specifically outlining the roles of advisors as follows:

- The advisor does not represent a student in an interview, meeting or hearing. Advisors may not actively participate in any phase of the process (no speaking on student's behalf, no direct questioning of the students/witnesses, and no addressing of the panel).
- The advisor may communicate discreetly with the student, including passing notes to the student, in a manner that is not disruptive of the proceedings.
- Advisors may attend, but not participate in, procedural meetings and interviews.
- Advisors may communicate with the College on the student's behalf, so long as the student has acknowledged that the advisor is serving on his/her behalf.
- The College should make it clear that it will work to include outside advisors to the extent feasible, but must adhere to strict deadlines and so may be limited in its ability to accommodate the schedules of outside advisors (arrangements should be made to accommodate phone appointments where in-person appearances are not possible or feasible).

5. Explore retaining one or more trained appellate reviewers who will have the necessary time and experience and can serve as appellate officer on the Provost's behalf.

Currently, the Provost serves as the College's designated appellate review officer for all appeals related to Student Conduct, Honor Code, and Title IX issues. In recent revisions to the Code, appeals of sexual misconduct cases bypass the Appeals Committee and are forwarded directly to the Provost for review. The increased volume and complexity of appeals has been a significant resource demand on the Provost and has made rendering a timely decision challenging. The subcommittee notes that the College previously employed such a reviewer, who acted on the Provost's behalf, as his designee. The subcommittee notes that this person must receive extensive training and his or her role must be carefully defined.

6. Make various other minor procedural additions and modifications, and add role of Title IX review team to comply with new Virginia law.

The proposed draft includes suggested revisions including the addition of standard student provisions inadvertently omitted, such as a provision regarding accommodating students with disabilities as required by law. The draft also includes a new role for the Title IX review team mandated by Virginia law. The team conducts an initial assessment of reports including to determine whether law enforcement must be notified.

Records and Access Recommendations

The records compiled in the process of reporting, investigating, and adjudicating Title IX-related matters belong to the College and are “education records” under FERPA. FERPA provides access for students to inspect their records upon request. Recently, students have requested copies be provided for themselves, a parent, and/or an attorney. Virginia FOIA provides that students can request certain education records pertaining to themselves, and legal counsel has advised that we must provide them when requested, whether a student is a Virginia resident or not.

- 1. Provide copies of the investigation summary report to the parties, with the personally-identifiable information redacted to the extent required by law.** The summary report will summarize relevant evidence collected including information provided by witnesses, but will not include the full set of interview notes. Inclusion of the full interview notes has resulted in complaints that irrelevant and prejudicial information is being considered by the panel and also prompted requests for redaction, retraction, and even dismissal of the Panel. The student parties would retain a FERPA/FOIA right to review the full interview notes, with redactions as required to ensure FERPA compliance.
- 2. Require parties and advisors to sign a confidentiality agreement that prohibits unauthorized disclosure to third parties.**
- 3. Ensure that the university’s practices regarding transcript notations denote disciplinary actions taken or pending, or enrollment actions as a result of pending cases.** Changes should reflect the recently-passed legislation regarding required notations for cases involving sexual violence. (See Appendix E)

Appendix A: Proposed Revised Policy

Appendix B: Proposed Revised Procedures

Appendix C: Student Sexual Harassment/Assault Infrastructure

Appendix D: Association of Student Conduct Administrators 2014 Gold Standard Practices for Resolution of Allegations of Sexual Misconduct on College Campuses

Appendix E: Transcript Notation Update Memo from Dean of Students to the University Registrar

Appendix A Policy on Sexual Harassment and Misconduct, Dating and Domestic Violence, and Stalking

Effective Date: August, 2011

Revision Date: [August __], 2015

Responsible Office: Dean of Students/Compliance & Policy

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I. Scope

This policy applies to the College of William & Mary, including the Virginia Institute of Marine Science (the university). It applies to all members of the university community, including faculty and other employees and students.¹

Officially recognized organizations, such as student organizations, are subject to this policy, provided that, to the extent permitted by law, social organizations such as fraternities and sororities may restrict membership to members of the same sex, and organizations whose primary purpose is religious or political may restrict their membership to those members of the university community who have similar beliefs or political affiliations.²

Vendors, contractors, and other third parties are covered by this policy in their interactions with members of the university community. Such third parties include (without limitation):

- University agents or volunteers
- Visiting scholars or scientists or others formally affiliated with William & Mary
- Contractors working on the university campus or university-controlled property
- Employees or principals of organizations where the student is working in a relationship arranged or funded by William & Mary, such as an internship or externship for which the student will receive academic credit
- Visitors and guests, while on university property or engaged in or attending university activities, events, or programs.

This policy applies to prohibited conduct that takes place on or off campus.³

This policy is not intended, and may not be applied, to abridge free speech or other civil rights of any individual or group. **[to consider: some clarification along these lines: Speech and expressive conduct may, however, violate this policy.]**

II. Purpose

Our community of trust requires that its members treat one another with respect, dignity, and fairness. This policy is designed to ensure a safe environment for the members of the William & Mary community.

This policy helps William & Mary comply with Title IX of the Higher Education Amendments of 1972,⁴ which prohibits discrimination on the basis of sex in education programs or activities, the Violence Against Women and Department of Justice Reauthorization Act of 2005, the Higher Education Act of 1965, and the Clery Act, each as amended.⁵ It also helps implement William & Mary's [Discrimination](#).

¹ Except as noted, in this policy "faculty" has the meaning provided in the Faculty Handbook, and does not include professional faculty, and "student" has the meaning provided in the Student Code of Conduct, and includes any person taking courses at the university whether full-time, part-time, degree-seeking or not, undergraduate or graduate.

² This provision reflects the rights granted by Section II of the Statement of Rights and Responsibilities and complies with Section 23-9.2:12 of the Code of Virginia.

³ Except as specified in Section I for visitors and guests.

⁴ 20 U.S.C. § 1681 et seq.

⁵ Including the amendments made by the Violence Against Women Reauthorization Act of 2013.

[Harassment and Retaliation Policy, by defining in detail sexual violence and certain other types of sexual harassment, and Campus Violence and Threat Management Policy.](#)

III. Explanation and Definitions

The university is committed to maintaining an environment that is free from sex-based violence and in which the freedom to make individual choices regarding sexual behavior is respected by all. Sexual misconduct by anyone is unacceptable and will be addressed in a prompt, equitable fashion in accordance with this policy and the applicable procedure.

Sexual misconduct, as defined by this policy, includes a broad range of behavior such as inappropriate physical touching, sexual exploitation, stalking, sexual intercourse without consent, and other forms of sexual violence.

The university carefully defines the different types of sexual misconduct to help ensure compliance with the Violence Against Women Act (VAWA), Title IX, and FERPA (the Family Educational Rights and Privacy Act). These laws work together to specify when and what information the university can or must provide to students experiencing or accused of sexual misconduct.⁶ In many cases, sexual misconduct is a form of sexual harassment, which is prohibited under the university's [Policy on Discrimination, Harassment, and Retaliation](#).⁷

Sexual contact requires effective consent (as defined below).

Sexual misconduct also may be a crime.

For additional guidance regarding the types of misconduct prohibited by this policy, please review the examples provided in Section V.

⁶ VAWA establishes rights for the “accuser and accused” in disciplinary proceedings relating to sexual assault, dating and domestic violence, and stalking. These rights includes the right to notification of final results including any sanction(s) and the rationale. Title IX establishes rights for “parties” to grievance procedures for resolving complaints of sex-based discrimination, including sexual harassment. See footnote 7 for explanation of which forms of sexual misconduct constitute sexual harassment.

⁷ Non-consensual sexual intercourse is a form of sexual harassment. Non-consensual sexual contact and sexual exploitation may, depending on the severity and frequency and any other unwelcome conduct, constitute sexual harassment. Domestic violence may constitute sexual harassment, if the criminal conduct is based on sex. Dating violence typically will constitute sexual harassment. Stalking may constitute sexual harassment, depending on the severity or frequency and whether the conduct was based on sex.

Sexual Misconduct, for the purposes of this policy, is a category of behavior that includes actual or attempted:

1. Sexual assault:
 - a. Non-consensual sexual intercourse and
 - b. Fondling;
2. Non-consensual sexual contact;
3. Sexual exploitation;
4. Domestic violence;
5. Dating violence; and
6. Stalking.

Sexual misconduct can occur between strangers or non-strangers, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by any person, and any person may be a victim of sexual misconduct, regardless of gender, identification, or orientation.

Definitions of the Different Types of Sexual Misconduct:

Sexual Assault is non-consensual sexual intercourse, fondling, statutory rape,⁸ or incest.⁹

Non-Consensual Sexual Intercourse is anal or vaginal penetration, no matter how slight, by a penis, tongue, finger, or object, without effective consent, or oral penetration by a penis, without effective consent.

Fondling is touching of a person's intimate body parts for the purpose of sexual gratification, without effective consent.

Non-Consensual Sexual Contact is either of the following without effective consent (see Section IV for the definition of consent):

1. Deliberately touching a person's intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas); or
2. Using force or threat of force to cause a person to touch that person's own or another person's intimate parts.

Sexual Exploitation is taking sexual advantage of another person without effective consent and includes causing the incapacitation of another person for a sexual purpose; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual information about a person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; exposing one's genitals; inducing another to expose their genitals; and/or knowingly transmitting a sexually transmitted infection, including HIV, to another person.

Domestic Violence is a violent crime¹⁰ committed by:

⁸ Sexual assault is a VAWA offense. Statutory rape is defined under VAWA as "sexual intercourse with a person who is under the statutory age of consent." In Virginia, statutory rape is not a legal term. There are several statutes that apply. While the penalties vary depending on the age difference between the parties and the age of the younger party, these laws criminalize sexual intercourse between someone who is 18 years of age or older and someone who is younger than 18.

⁹ Incest is defined under VAWA as "sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law."

¹⁰ Either a felony or misdemeanor

1. A current or former spouse or intimate partner of the victim;
2. A person with whom the victim shares a child in common;
3. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
4. A parent, child, step-parent or step-child, sibling (full or half), grandparent or grandchild of the victim;
5. The victim's mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, if he or she resides in the same home with the victim; or
6. Any other person who cohabits or, within the previous 12 months, cohabitated with the victim.^{11 12}

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, other than Domestic Violence.¹³

The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.¹⁴

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Stalking is defined as engaging in a course of conduct directed at a specific person intended to and that would cause a reasonable person to:

1. Fear for the person's safety or the safety of others; or
2. Suffer substantial emotional distress. Such distress does not have to be severe enough to require medical or other professional treatment or counseling in order to be substantial emotional distress.¹⁵

Stalking requires two or more acts, including but not limited to, acts in which the stalker directly, or through third parties, by any action, method, device, or means follows, monitors, surveils, threatens, or communicates, to or about, a person, or interferes with a person's property.¹⁶

¹¹ 34 C.F.R. § 668.46(a) (2014) (Pending; final consensus language).

¹² Va. Dep't of Criminal Justice Servs., *An Informational Guide for Domestic Violence Victims in Virginia*, DCJS.VIRGINIA.GOV, available at <https://www.dcjs.virginia.gov/victims/documents/domviobr.pdf> (last visited June 2, 2014).

¹³ 34 C.F.R. § 668.46(a) (2014) (Pending; final consensus language).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

Important Related Definitions: Consent and Incapacitation

Members of the university community choosing to engage in any form of sexual activity – from touching or kissing to intercourse – must obtain consent from their partner(s) prior to engaging in such activity.

Consent must be clear, knowing, and voluntary. Getting consent is an active process that involves clearly communicating intentions and desires. Consent for sexual activity is based on the mutual understanding and respect of all people involved for the desires and wishes of their partner(s). Consent must be informed, with all people involved having the information relevant to the sexual activity in question. The party initiating the sexual act has the responsibility for ensuring that the other person is a willing and voluntary participant. Consent:

1. Is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested an understandable agreement between them to do the same thing, in the same way, at the same time and with one another¹⁷;
2. Is not merely the absence of a verbally stated “no”;
3. Is never final or irrevocable; consent can be withdrawn at any time;
4. Is time-limited and situation-specific; even if someone obtained consent from a partner(s) in the past, this does not mean that consent is automatically granted again;
5. Can only be given by someone who is free from verbal or physical coercion, intimidation, threat, or force.¹⁸ There is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone to into the activity. Coercion occurs when someone is pressured unreasonably for sex; and
6. Is not valid if the party from whom consent is sought is incapacitated, as defined below.

The use of drugs or alcohol is not an excuse for failing to obtain consent for sexual activity.

Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because (s)he lacks conscious knowledge of the nature of the act (e.g., s(he) does not understand the who, what, when, where, why, or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if he or she is asleep, unconscious, or otherwise unaware that sexual activity is occurring. The use of alcohol or drugs does not, by itself, establish that a person is incapacitated. The impact of alcohol and drugs varies from person to person, evaluating incapacitation requires a qualitative assessment of how the consumption of alcohol and/or drugs has affected the individual’s capacity to:

- Make informed decisions about sexual contact;
- Understand the potential consequences of sexual contact;
- Consent to sexual contact;
- Understand the nature and quality of his/her actions.

Whether a person is incapacitated is determined using the standard of whether a similarly-situated (and sober) reasonable person would, or should have known, the person was incapacitated and therefore unable to provide effective consent.

¹⁷ Sokolow, Brett A., *NCHERM The Sexual Conduct Judicial Training Manual*. 2001, p.55.

¹⁸ For a definition of “threat”, see the university Policy on Campus Violence and Threat Management.

IV. Reporting Matters

This Section covers:

- **Support for Reporting Parties and Interim Measures**
- **How and Where to File a Report or Complaint**
- **What Happens When You Tell Someone About Sexual Misconduct – Obligations of Faculty and Staff to Report Sexual Misconduct**
- **Confidential Resources – How and Where to Receive Resources and Support Without Making a Report**
- **Confidentiality and Anonymity and Requests Not to Take Action or Pursue Conduct Charges**
- **Amnesty from Student Discipline for the Reporting Party**

Support for Reporting Parties and Interim Measures. We encourage members of the campus community who experience or witness any form of sexual misconduct discussed in this policy to explore reporting options, including reporting to law enforcement. Reporting misconduct allows the university to assist the reporting party. Interim measures the university may take to help the reporting party include:

- Orders barring further contact (no-contact orders)
- Providing the reporting party with an escort to ensure that he or she may move safely between classes and activities
- Providing counseling or medical services, including, for students free services from the university Counseling Center or Student Health Center
- Making academic accommodations
- Relocation or rescheduling of classes
- Additional supervision or monitoring of respondent
- Changing residence or working locations (reporting parties will not be moved without their consent)
- Restrictions limiting the respondent's presence on campus or to certain areas of campus
- Interim suspension from residence, from the campus, and/or from any activities of the university.

Most of these interim measures may be taken even if the reporting party does not want to initiate a conduct or criminal process.

How and Where to File a Report or Complaint

You may always file a report with the Title IX Coordinator:

Kiersten L. Boyce, J.D., CCEP
Chief Compliance Officer
108 James Blair Hall
College of William & Mary
Williamsburg, VA 23185
757-221-3146
klboyc@wm.edu

Students, faculty, staff and other individuals may also chose from one or more of these options:

- [Online reporting](#)
- [In-person reporting](#)
- [Paper reporting \(including email\)](#)
- [Anonymous reporting](#)
- [Criminal reporting](#)
- [Other options and resources](#)

Online reporting

William & Mary's [online reporting portal](#), offered by the Dean of Students, provides options for anyone to report a Title IX concern relating to a student. Online reporting for matters not relating to or involving students is not currently available. Reports also may be emailed to reportconcern@wm.edu

In-person reporting

Reports relating to students:

Dean of Students
 Campus Center, Room 109
 757-221-2510

Any type of Title IX report:

Title IX Office (Compliance & Policy)
 James Blair Hall Suite 110
 757-221-3146

Paper reporting - providing a written report by mail or email

Reports relating to students:

Dean of Students
 Campus Center, Room 109
 College of William & Mary
 P.O. Box 8795
 Williamsburg, Virginia 23187

Any type of Title IX report:

Title IX Office (Compliance & Policy)
 James Blair Hall Suite 110
 College of William & Mary
 P.O. Box 8795
 Williamsburg, Virginia 23187

Anonymous reporting options

Anonymous reports as well as partial disclosure reports of incidents involving students may be made **online** through the Dean of Students ["Report a Concern" portal](#).

Anonymous reports may be **filed physically** using the secure dropbox located outside of the Title IX Office on the first floor of James Blair Hall.

Information about confidential resources – people and places you can go without triggering a report or an investigation – is provided below.

Reporting for criminal prosecution -- reporting to the police

Sexual assault and some other forms of sexual misconduct are crimes, and may be reported to law enforcement for investigation.

William & Mary staff members can help students file a criminal complaint, if desired.

Students and staff may report to the police and also report internally. **You do not need to choose one or the other.**

- [The William & Mary Police](#) generally have jurisdiction over incidents occurring on W&M's campus.
- [The Williamsburg City Police](#) generally have jurisdiction over incidents occurring in the city of Williamsburg.
- [The James City County Police](#) generally have jurisdiction over incidents occurring in James City County.

Other options for students

For students, the Haven is a student-run center for support, advocacy, and empowerment. It provides information and support to student survivors of sexual assault and others who have questions or want to learn more. The Haven can coordinate support services and accommodations to help students who have experienced the trauma of sexual assault. These services and accommodations are available regardless of whether a student files a formal report.

More information about other campus and off-campus resources and support is [available online](#) and through Student Affairs.

Other options for faculty and staff

University Ombuds

Tatia Granger

Hornsby House 336

(757) 221-1941

ombuds@wm.edu

Human Resources

Bell Hall

(757) 221-3169

hroffice@wm.edu

Obligations of Faculty and Staff to Report

With a very few exceptions, W&M faculty and staff are considered “responsible employees.” When a responsible employee becomes aware of sexual harassment or sexual misconduct involving a student or occurring on campus or other W&M-related property, the employee is required to report the matter to the Title IX Coordinator. Responsible employees who are supervisors or managers are also required to report sexual harassment of employees when they become aware of it.

This reporting obligation is explained in the Policy on Discrimination, Harassment and Retaliation. If the victim of the harassment wants to remain anonymous or does not want any action to be taken relating to the matter, the university will carefully consider this as described below.

Confidential Resources – How and Where to Receive Resources and Support without Making a Report

For students:

Students who are not sure whether they want to make a complaint or report are encouraged to seek help from Care Support Services or the Haven. Professional staff in Care Support Services and student staff in the Haven can provide non-judgmental support and information to help the person decide what is best while the person recovers.

Care Support Services

Lesley Henderson, Interim Sexual Assault Response Coordinator

Campus Center, Room 109

(757) 221-2509

ljhenderson@wm.edu

The Haven

Campus Center 166

(757) 221-2449

thehaven@wm.edu

Other confidential resources for students on campus are:

William & Mary Counseling Center

Blow Hall 240

(757) 221-3620

Student Health Center

Gooch Drive

(757) 221-4386

Graduate Ombuds (for graduate students)

Dr. Peter Vishton

Integrated Science Center 1089

(757) 221-3879

pmvish@wm.edu

International Travel & Security Manager (for international students or students participating in international programs)

Nick Vasquez

Reves Center 222

(757) 221-1146

For staff:

The University Ombuds is a confidential resource available to W&M staff.

Tatia Granger

Hornsby House 336

(757) 221-1941

ombuds@wm.edu

Confidentiality and Anonymity and Requests Not to Investigate

The university makes every effort to protect the privacy and confidentiality of people who report or are named in a report of sexual misconduct. Information reported will be shared only on a need-to-know basis. The university also takes steps to protect members of its community against further misconduct, including retaliation. Confidentiality and retaliation protections exist in part to help encourage people who experience misconduct to come forward and to permit an investigation to proceed. For people who remain concerned about their identities being known or who do not want investigation to occur, however, there are options:

- A person may report sexual misconduct without disclosing the name of the victim (see provisions on reporting, described above).
- A person may report sexual misconduct with names, but may request that the name of the victim of the misconduct remain confidential and not be shared, as would be required in an investigation.
- A person may also request that the university not take action in response to a sexual misconduct incident of which it becomes aware.¹⁹

Typically, the university will not begin an internal administrative investigation or make a referral to law enforcement without the consent or involvement of the reporting party, but the university must consider its obligation to other students or staff and the campus community.²⁰ The Title IX Review Team will decide whether an investigation or referral is required after evaluating the risk of the alleged offender harming other members of the campus community and the likelihood of the university being able to proceed forward without the active participation of the reporting party (if applicable). The factors considered by the Title IX Review Team and its process for deciding what action to take on a report is detailed in Section IV(A) of the Sexual Misconduct Procedure.

¹⁹ For example, if a student tells a faculty member that she has been assaulted and the faculty then reports this as required to the Title IX Coordinator, but the student did not want any investigation.

²⁰ “Reporting party” typically refers to the victim or person experiencing the sexual misconduct, but may be a third party. If it is a third party, the wishes of the victim/person experiencing the sexual misconduct will also be considered.

Amnesty from Student Discipline for the Reporting Party and Witnesses

Assisting students who are reporting sexual misconduct is the university's primary interest. In order to facilitate reporting, the Dean of Students does not charge students who report sexual misconduct and any material witnesses with Code of Conduct violations for behavior that would otherwise be considered violations (for example consuming alcohol underage or consuming illegal drugs).

V. Examples of Sexual Misconduct²¹

- A. Joel is a junior at the College. Beth is a sophomore. Joel comes to Beth's room with some mutual friends to watch a movie. Joel and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Joel and Beth are alone. They hit it off and are soon becoming more intimate. They start to make out. Joel verbally expresses his desire to have sex with Beth. Beth, who has suffered from trauma since being sexually abused by a baby-sitter when she was five, is shocked at how quickly things are progressing and says nothing. As Joel takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Joel to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? ***This is a policy violation. Joel would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Joel, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Joel had no verbal or non-verbal mutually-understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, students should attempt to be as clear as possible as to whether or not sexual contact is desired, but students must be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.***
- B. Sasha is dancing with Miguel, a co-worker she knows from her office, at a crowded party. After dancing for a while, Miguel kisses Sasha, and she kisses him back. A short time later, Miguel moves his hands to Sasha's buttocks. She tells him to stop, saying she doesn't want to be touched in that way and that he should have more respect for her. He laughs, tells her she takes herself too seriously, and again begins to grope her. ***This is a policy violation. Miguel touched Sasha in a sexual way without her consent, and continued to do so after she told him to stop. Even though Sasha appears to have consented to kissing, this consent does not extend to other sexual contact. This behavior is a form of non-consensual sexual contact.***
- C. Kristen and Myra have been intimate for a few weeks. One night, Myra calls Kristen and asks her to come over. When she arrives, Myra kisses Kristen passionately and leads her into the bedroom. They each express their excitement and desire to "hook up," and are soon making out heavily in Myra's bed. After a while, Kristen tries to engage in oral sex with Myra. Myra tells Kristen that she really likes her, but that she doesn't feel ready for that. Kristen tells Myra she's just being shy, and ignores her when she repeats that she doesn't feel ready. Finally, Kristen threatens to reveal on the Internet that Myra is a lesbian. Because Myra has not yet come out to her friends and family, she becomes frightened and relents. Kristen proceeds with oral sex. ***This is a policy violation. Because of Kristen's manipulative and threatening arguments, Myra was afraid and unable to freely give her consent. Consent must be given freely and without undue pressure or threat. Kristen threatened Myra and therefore did not receive effective consent from Myra.***

²¹ Examples 1-6 are adapted with permission from Duke University's Sexual Misconduct Policy.

- D. Liz and Kwan have been together for six months. She often tells her friends stories of Kwan's sexual prowess, and decided to prove it to them. One night, she and Kwan engage in consensual sexual intercourse. Without Kwan's knowledge, Liz sets up her digital camera to videotape them having sex. The next evening, she uploads the video to an online video-sharing site and discusses it with her friends online. ***This is a policy violation. Kwan's consent to engage in sexual intercourse with Liz did NOT mean Liz had obtained his consent to videotape it. This is a form of sexual exploitation.***
- E. Andrew and Felix have been flirting with each other all night at a party. Andrew notices Felix slurring his speech when he goes to the bathroom and wonders if Felix went there to vomit. When Felix returns, the two begin flirting more heavily, and as the conversation continues, the two become more physically affectionate. Andrew soon suggests they go back to his room, and Felix agrees. As they walk, Andrew notices that Felix looks unstable and offers his arm for support and balance. When they get back to his room, Andrew leads Felix to the bed and they begin to become intimate. Felix becomes increasingly passive and appears disoriented. Andrew soon begins to have sexual intercourse with him.

The next morning, Felix thinks they had sex but cannot piece together the events leading up to it. ***This is a policy violation. Felix was clearly under the influence of alcohol and thus unable to freely consent to engage in sexual activity with Andrew. Although Andrew may not have known how much alcohol Felix had consumed, he saw indicators from which a reasonable person would conclude that Felix was intoxicated, and therefore unable to give consent. Andrew in no way obtained consent from Felix for sexual intercourse.***

- F. Denise is an undergraduate teaching assistant in Paul's economics class. She notes that he has not been performing well on take-home assignments and exams. Both of them have come to tailgate, each with their own group of friends. Denise has consumed one can of beer, while Paul is rather intoxicated. Denise sees Paul and approaches him. She flirts with him, telling him that she can help him improve his grades if he will hook-up with her. As Paul turns to walk away, Denise grabs his buttocks and squeezes them. ***This is a policy violation. Denise, in a position of power over Paul as his teaching assistant, attempted to arrange a quid pro quo sexual relationship. Additionally, she did not seek consent from Paul to touch him, even if a reasonable person could conclude that Paul was not too intoxicated in order to provide consent. Denise has sexually harassed Paul.***
- G. Jeff and Michael are neighbors in their dorm. Michael soon realizes that Jeff is undergoing the transition from identifying as male to female and prefers to be called Becca. Becca begins wearing women's clothing and starts applying makeup on a regular basis. This is alien to Michael's experience and makes him uncomfortable. Michael begins muttering slurs whenever they pass each other in the dorm. Additionally, Michael starts telling his friends on other floors about the "freak living next door," and tells them to take a look for themselves. They do, a few individually, a few as groups that murmur and snicker to each other when they see Becca.

Becca begins to dread leaving or returning to her room and starts to isolate herself to avoid Michael and his associates. It gets to the point that Michael invites people to his room specifically

for the purpose of showing them Becca when she passes by so they can have a laugh at her expense. ***This is a policy violation. Not only have Michael and his associates created a hostile environment for Becca based on her identification, they also have stalked her.***

- H.** At a social function, Jennifer, a campus employee spends some time talking with her supervisor, Scott. At one point in the conversation, Scott reaches out and puts his hand on Jennifer's hip. Jennifer freezes, completely uncomfortable but is not sure how to proceed. After a few minutes, Scott takes his hand away and Jennifer ends the conversation and moves away. Now Jennifer is scared that Scott may make further overtures. Is this a policy violation? ***A single act of unwelcome sexual conduct can constitute sexual harassment. This particular act is not the most severe, but the power differential is an aggravating factor. Unquestionably, it is inappropriate for a supervisor to touch an employee in this manner and the behavior needs to be stopped. You could speak to your supervisor about the situation, but it is often difficult for employees to address what they believe to be harassment or inappropriate behavior with the perpetrator. So it may be advisable instead to speak to the head of your unit (the appropriate VP, for example) or to Human Resources or the Title IX Coordinator.***
- I.** Monica is a faculty member in the Biology department, and Shawn is a faculty member in the Art department. Monica asks Shawn on a date to the movies. Shawn agrees and picks Monica up from work to go to the theatre. During the movie, Shawn puts his arm around Monica's shoulder. Monica smiles and leans closer to Shawn. Later, he moves his hand down to stroke and massage Monica's breast through her shirt. Monica is surprised and tells Shawn to stop. Shawn does not remove his hand, so Monica moves it away from her breast. They end the date without saying anything about the behavior. Has a policy violation occurred? ***A policy violation has occurred because Monica did not consent to the sexual contact with her breast. Monica indicated consent for Shawn to put his arm around her, but this consent does not extend to other conduct, particularly intimate contact. The fact that Monica did not say anything about the behavior does not indicate that Monica consented to having breast touched and does not absolve Shawn from responsibility for the consequences of his decision to touch her breast without first obtaining clear consent. The party who initiates sexual contact must always obtain consent for each act, and it is especially important to exercise additional caution when one does not know one's partner well, as is the case here.***

VI. Enforcement

Any student, faculty, or staff who violates this policy is subject to discipline, up to and including permanent dismissal. Disciplinary action will be taken in accordance with the applicable procedure:

- For students, the Student Sexual Harassment and Misconduct Procedure
- For faculty, the Faculty Handbook
- For staff, the Discrimination Grievance/Complaint Procedure and the applicable policy relating to discipline.²²

²² For classified and operational staff, the State Standards of Conduct (DHRM Policy 1.60); for professional staff, the Policy on Appointments and Termination for Professionals and Professional Faculty; for executive employees, the Employment Policy for Executives.

VII. Approval and Amendment

This document was amended effective February 6, 2015 to: (1) separate the policy from the procedure; (2) incorporate new definitions of certain types of sexual misconduct to comply with the Violence Against Women Reauthorization Act of 2013 (VAWA); and (3) make other revisions and improvements to the definitions of consent and the examples of sexual misconduct.

This policy was amended by the President effective [DATE__, 2015], to (1) expand its application to faculty and staff and certain third parties, (2) make minor revisions to the definitions of sexual misconduct including changes to clarify the relationship of the policy definitions to VAWA offenses, (3) modify the definition of incapacitation, and (4) make changes relating to the initial review of reports and employee reporting obligations, to comply with state law effective July 1, 2015.

The Title IX Coordinator is authorized to make minor, technical amendments to this policy, such as to update contact information.

IX. Related Documents, Policies, and Procedures

The [Title IX policies and procedures website](#) summarizes the university's various policies and procedures relating to the prevention and response to sexual harassment and sexual violence.

Appendix B: Student Sexual Harassment and Misconduct Procedure

Effective Date: August 2011

Revision Date: [____], 2015

Responsible Office: Dean of Students/Compliance & Equity

Contents:

- I. Purpose
- II. Scope
- III. Reporting, Retaliation, and Other Initial Matters
- IV. Initial Assessment of Report
- V. Investigation
- VI. Information Session; Resignation Options; Adjudication/Resolution Methods
- VII. Timeline and Other General Procedural Issues
- VIII. Hearing
- IX. Appeals

I. Purpose

The purpose of this procedure is to provide a fair and effective investigation and adjudication process. This procedure helps the university implement two important policies relating to sexual harassment, sexual assault, and other forms of violence:

- The Policy on Discrimination, Harassment, and Retaliation, which defines prohibited discrimination including sexual harassment and states that sexual violence is a form of sexual harassment; and
- The Policy on Student Sexual Harassment and Misconduct, Dating and Domestic Violence, and Stalking (the Student Sexual Misconduct Policy), which defines the different forms of sexual misconduct and explains reporting options.

This procedure also helps William & Mary comply with [Title IX of the Educational Amendments of 1972, which prohibits discrimination based on sex, by providing a fair, prompt process to respond to complaints, reports, and grievances.](#)

II. Scope

This procedure applies to the College of William & Mary, including the Virginia Institute of Marine Science (the university).

This is the procedure for investigating

- any conduct prohibited by the Student Sexual Misconduct Policy and
- any other type of sex or gender-based discrimination prohibited by the [Policy on Discrimination, Harassment, and Retaliation](#), which is reported, or suspected to have been committed by a student (regardless of enrollment status) or student group, each as defined in [Section I of the Student Code of Conduct](#). Different procedures are used for addressing complaints and concerns of discrimination and harassment by employees or third parties (including but not limited to

vendors, contractors, alumni/ae, visitors or local residents); the Dean of Students can assist students with such complaints or concerns.²³

This policy applies to misconduct of a student, regardless of where the misconduct occurred.²⁴

This procedure also may be used, in the discretion of the Dean of Students, for investigation and adjudication of other reported violations of the Student Code of Conduct, particularly:

- reported violations related to the reported sexual harassment or misconduct and alleged to have been committed by the same student or student group, and
- reported violations of the rights of others, particularly those requiring significant investigation, such as allegations of other forms of harassment.

In this procedure, sexual harassment, sexual misconduct, or other reported violations investigated under this procedure are referred to as “misconduct.” Sexual harassment is defined in the [Discrimination, Harassment, and Retaliation Policy](#). Definitions of sexual misconduct (including sexual assault and other forms of sexual violence), dating and domestic violence, and stalking, can be found in the Student Sexual Misconduct Policy.

III. Reporting Matters: How, Who and When to Report; Retaliation; Relationship to Criminal Proceedings

A. Who May Report a Violation. Any person may file a [report](#) of misconduct under this procedure.

Most reports are made by university students who have experienced misconduct. But reports may be made by someone who is aware of but has not directly experienced misconduct, and may be made by non-students.

Reporting Party Not the Person Who Experienced Misconduct. This procedure assumes that the person reporting the misconduct is the person who was harassed, assaulted, or otherwise personally and directly experienced the misconduct. However, reports also may be made by people who witnessed misconduct or were told about it or are otherwise aware of misconduct. In those cases, the reporter typically will not have the rights and role of the “reporting party” under this procedure; instead, the person who experienced the misconduct will be treated as the reporting party, if he or she is willing to participate in the procedure. See Section V of the Student Sexual Misconduct Policy for a discussion of confidentiality, anonymity, and investigations without reporting party involvement.

Reporting Party Not a Member of the William & Mary Community. Visitors, guests, and other people who experience misconduct from a William & Mary student may report using this procedure. Certain parts of the process outlined in this procedure will not apply; for example, many of the interim measures are ones that may only be taken for a William & Mary student, and privacy laws may prevent the university from giving a third party access to information about

²³ Investigations of alleged misconduct by a faculty member are handled under the procedures set out in the Faculty Handbook. Investigations of alleged misconduct by any other type of employee, contractor, or other non-student third party are handled under the Discrimination Grievance/Complaint Procedure.

²⁴ If, after review, the Title IX Coordinator determines (1) that the misconduct did not occur in the context of a William & Mary program or activity, (2) did not have a continuing effect to such a program or activity, and (3) did not have a continuing effect on campus, including by creating a hostile environment, William & Mary may, but is not required to, limit its response to providing support for the reporting party, including by implementing appropriate interim measures as described in Section III(F) of this procedure.

students that otherwise would be shared with the reporting party under this procedure. The university will modify its process in these situations, depending on the specific facts and circumstances.

B. How & Where to File a Report. Students are encouraged to report to the Dean of Students. Full information about reporting options is provided in the Student Sexual Misconduct Policy, including:

- the types of reporting available (criminal, internal investigative, written, in-person, confidential, anonymous, with request not to investigate)
- how to report and
- protections for reporting parties, including amnesty policies and protections from retaliation.

C. Initial Intake of Report; Immediate Services and Support Offered. Students are encouraged to report incidents of sexual misconduct to the Dean of Students. If a student reports to another university employee or faculty member (other than a confidential resource), that employee or faculty member will follow specified steps, including notifying the Dean of Students and Title IX Coordinator.

If a student is ready to make a report under this procedure, the Dean of Students or a designee will meet with the reporting party to

- provide him or her with information about the process and his or her [rights and options and available resources](#),
- explain the protections against retaliation, and
- discuss interim measures to protect the student against retaliation and provide him or her with support services.

This meeting may occur before the initial assessment by the Title IX review team described in Section IV. More information about interim measures and support services is provided in Section IV(C).

D. Timing of Reports and Availability of Procedures. There is no time limit to invoking this policy. The university encourages reporting misconduct as soon as possible in order to maximize the university's ability to respond promptly and effectively. Even if the respondent is no longer a student or employee at the time of the complaint or report, the university may not be able to take disciplinary action against the respondent, but it will still seek to meet its Title IX obligations by providing support for the complainant and taking steps to end the prohibited behavior, prevent its recurrence and address its effects.

Where the respondent is a degree candidate, the reporting party is encouraged to consult with the Office of the Dean of Students concerning the respondent's intended date of graduation and to file a report in a timely manner to avoid loss of authority over the student due to graduation. In no circumstances will the university permit an impending graduation to compromise its processes for resolution. The conferral of a degree may therefore be held, if necessary, until proper resolution of any misconduct case.

E. Retaliation. Under the [Policy on Discrimination, Harassment, and Retaliation](#), it is a violation to retaliate against any person making a report of misconduct or against any person cooperating in the investigation (including serving as a witness). Retaliation (as defined in that Policy) should be reported promptly to the Dean of Students and may result in disciplinary action independent of the sanction or interim measures imposed in response to the underlying allegations of misconduct. Interim measures are discussed in more detail in Section IV(C).

For more information about retaliation generally, including examples, please visit the [College's Compliance website](#).

F. Effect of Criminal Proceedings. Because misconduct may constitute both a violation of university policy and criminal activity, the university encourages people who have experienced sexual misconduct to report promptly to law enforcement. The university also reports certain matters directly to law enforcement and/or the prosecutor with jurisdiction, as described in Section IV below.

The standards for finding a violation of criminal law are different from the standards for finding a violation of this policy. This means that conduct may violate university policies even if it is not a crime or law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute.

This procedure is independent of any criminal investigation or proceeding. The university generally will not wait for the conclusion of any criminal investigation or proceedings to commence its own investigation and take interim measures to protect the reporting party and the university community, although the university will consider law enforcement requests to delay temporarily (generally no more than seven days).

IV. Initial Assessment of Report

Upon receipt of a report of sexual misconduct, the Title IX Coordinator or designee will notify the other members of the Title IX review team, which shall meet within 72 hours in the case of a reported act of sexual violence²⁵ and as soon as practicable in all other cases, to

1. conduct a threat assessment and make any mandated reports
2. determine the appropriate procedure(s) and whether an investigation is warranted²⁶
3. develop interim measures, if appropriate, and
4. make internal referrals as appropriate.

The Title IX Review Team is the Title IX Coordinator or designee, the Chief of William & Mary Police or designee, and the Dean of Students or designee. The team may include a representative from Human Resources or the Office of the Provost, if staff or faculty may be involved in the reported matter. The team operates pursuant to Va. Code §23-9.2:10 and has access, under Virginia law, to certain otherwise confidential information, including law enforcement records and criminal history information, as provided in Va. Code §19.2-389 and §19.2-389.1; health records, as provided in Va. Code §32.1-127.1:03; university disciplinary, academic and/or personnel records; and prior reports of misconduct maintained by the Title IX Coordinator. The team will have access to all available facts and circumstances and may seek additional information about the reported incident through any other legally permissible means.

²⁵ Sexual violence, for this purpose, is defined by Section 23-9.2:15 of the Virginia Code as “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent.”

²⁶ As discussed in Section II (Scope), this procedure is for reports for which the request or decision has been made to move forward for investigation; Section V of the Sexual Misconduct Policy specifies how confidential reports or reports made with a request for anonymity or not to take action are handled.

A. **Threat Assessment and Mandated Reports.** The Title IX Review Team will review the report and any other available relevant information to assess the threat posed by the reported misconduct and to determine whether external reports are required. The team²⁷ will make this determination based upon the following factors (the “Risk Factors”):

- Whether the respondent has prior arrests, reports and/or complaints related to sexual harassment or misconduct or has any history of violent behavior;
- Whether the respondent has a history of failing to comply with university protective measures, and/or any judicial protective order;
- Whether the respondent has threatened to commit violence or any form of sexual misconduct;
- Whether the reported misconduct involved multiple respondents;
- Whether the reported misconduct involved physical violence. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking and brandishing or using any weapon;
- Whether the report reveals a pattern of sexual misconduct (e.g., by the respondent, by a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the sexual misconduct was facilitated through the use of “date-rape” or similar drugs or intoxicants;
- Whether the sexual misconduct occurred while the reporting party was unconscious, physically helpless or unaware that the sexual misconduct was occurring;
- Whether the reporting party is (or was at the time of the reported incident) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.²⁸

Upon completion of the threat assessment, the appropriate member of the Title IX Review Team will make any mandated reports:

1. If the team²⁹ determines that disclosure of the report to the law enforcement agency that would be responsible for investigating the alleged act of sexual violence is necessary to protect the health or safety of the reporting party or other persons, the W&M Police representative will immediately make such disclosure.³⁰
2. If the alleged act of sexual violence would constitute a felony violation of Section 18.2-61 of the Virginia Code, the W&M Police representative shall inform the other members of the review

²⁷ If the Title IX Review Team cannot reach consensus, the W&M Police representative on the team shall make the determination with respect to the report to law enforcement, and the Title IX Coordinator shall make the determination with respect to an internal investigation. In all cases, the W&M Police representative makes the notification to law enforcement. In some instances, the notification would be in the form of an incident report to W&M Police.

²⁸ [From UVa’s policy – to request permission to adopt and use.]

²⁹ If the Title IX Review Team cannot reach consensus, the W&M Police representative on the team shall make the determination.

³⁰ As required by Va. Code §23-9.2:15(F). The report will include personally identifiable information.

committee and, within 24 hours, consult with the attorney for the Commonwealth or other prosecutor responsible for prosecuting the alleged act of sexual violence. This consultation will not include personally identifiable information, unless such information was disclosed as described under paragraph 1 above. If this consultation does not occur and any other member of the team concludes that the alleged incident would constitute a felony violation, he or she will make the same consultation, within 24 hours.³¹

3. If the reported incident involves abuse (including sexual violence against) of a minor (or someone who was a minor at the time of the incident), the team will designate a team member to report the matter to the Department of Social Services within 24 hours.³²

If any external report is made under this section, the Title IX Coordinator will notify the reporting party promptly.

B. Determination as to Appropriate Procedure and Investigation. Upon completion of the threat assessment, the Title IX Review Team will determine the appropriate course of action:

1. no further action under this procedure; for reports of harassment not including violence or assault, referral to another procedure such as applicable appeal or grievance procedure may be appropriate. No action may be appropriate for reports that do not include sufficient information to initiate an investigation, reports where the person reported to have experienced the misconduct has requested no action and the team's assessment concludes that this request may be honored, reports that do not allege conduct that violates applicable university policy, or reports of matters for which the university does not have jurisdiction.
2. remedial but not disciplinary action. Remedial actions may include remedies offered to the victim as well as actions designed to address possible areas of concern such as educational or awareness activities, targeted training, increased supervision or oversight of specific clubs or organizations or individuals, or warnings or directions to specific individuals. This course of action may be appropriate for reports that do not have sufficient information to initiate an investigation, reports where the person reported to have experienced the misconduct has requested no investigation and the team's assessment concludes that this request may be honored, reports that do not allege conduct that violates applicable university policy but do allege conduct not consistent with university expectations, such as harassing conduct that has not become severe or pervasive enough to create a hostile environment.
3. further action under this procedure (or the procedure used for reports of misconduct by faculty, staff or third parties, as applicable).

In making this determination, the team will consider which university procedure has jurisdiction over the reported misconduct and the reporting party's preference(s), if stated.

If the reporting party has requested that there be no investigation or requested to remain anonymous or is not participating in the process, the team will determine whether an internal investigation under this procedure is necessary to protect the health and safety of the campus community or individual students or to fulfill the university's obligations to provide a campus environment free from harassment. In making this determination, the team will consider the Risk Factors and any evidence showing that the respondent made statements of admission or otherwise accepted responsibility for the misconduct, the existence of

³¹ As required by Va. Code §23-9.2:15(G).

³² As required by Va. Code §63.2-1509.

any independent information or evidence regarding the misconduct, and any other available and relevant evidence other than the reporting party's testimony. If a determination is made to proceed with an investigation against the request of the reporting party, the Title IX Coordinator will notify the reporting party promptly.

If a reporting party has requested an investigation or disciplinary measures and the Team has determined that the information available does not provide a reasonable basis for conducting an investigation under this procedure or that this procedure is not applicable, the Title IX Coordinator will notify the reporting party promptly.

The Title IX Review Team may change its determination based on additional information, at any time.

C. Interim Measures. Interim measures are steps taken by the university to prevent retaliation, prevent continuation or recurrence of the alleged misconduct, prevent the creation of (or remedy) a hostile or offensive environment, and ensure that the reporting party and others are able to participate in the university's educational and other programs and activities. Possible interim steps include:

- Issuing orders barring further contact (no-contact orders)³³
- Providing the reporting party with an escort to ensure that he or she may move safely between classes and activities³⁴
- Providing counseling or medical services, including free services from the university Counseling Center or Student Health Center
- Making academic accommodations³⁵
- Relocating or rescheduling of classes
- Changing residence locations (reporting parties will not be moved without their consent)³⁶
- Restricting the respondent's presence on campus or to certain areas of campus³⁷
- Issuing [interim suspension](#) from residence, from the campus, and/or from any activities of the university to ensure the health or safety of members of the college community.³⁸

The review team will review any interim measures put in place and may make or recommend additional or alternative interim measures.

The university will maintain as confidential any accommodations or other interim measures provided to the reporting party, to the extent maintaining such confidentiality would not impair the ability to provide the accommodations or protective measures. (For example, no-contact orders must, by their nature, be disclosed to the affected student.)

The team or the Dean of Students/designee may modify interim actions at any time.

³³ May be issued by the Dean of Students (to the extent relating to students), the Title IX Coordinator, the Provost or, to the extent relating to faculty, the relevant Dean.

³⁴ May be arranged by the Dean of Students or W&M Police.

³⁵ May be provided by the Dean of Students (subject to approvals as required, depending on the nature of the accommodation), the relevant Dean [_____]?

³⁶ May be provided by the Dean of Students in cooperation with Residence Life.

³⁷ May be issued by the Dean of Students (to the extent relating to students), the Provost, or W&M Police.

³⁸ May be issued by the Dean of Students or designee, if relating to a student, the Provost, if relating to a faculty or staff member, or the Chief Human Resources Officer, if relating to a non-faculty employee.

D. Internal Referrals.

1. The Title IX Review Team will refer to CAIT those matters determined to warrant continued threat assessment or management beyond the interim measures and other steps specified by this procedure.

V. Investigation

This Section specifies the process used to investigate a misconduct report, when the review team has decided an investigation is warranted (see Section IV(B)).

A. Initial Meeting; Notification of Allegations.

Generally within five days of [receipt of the report], the Dean or designee will meet with the respondent to

- notify him or her that a report has been made and that the matter will be investigated and resolved through the conduct process,
- provide the student with information about the process and his or her [rights and duties and available resources](#),
- provide the student with the name and contact information of the administrative advisor available to assist him/her (See Section Paragraph H of this Section V),
- warn the student against retaliation,
- provide him or her with information about his or her rights, including the right not to incriminate him- or herself, as defined by the Code of Conduct, and
- discuss interim measures. If the interim steps include suspension from the university or from residence, the Dean of Students will inform the student of his or her right to appeal the suspension in accordance with the policy outlined in Section IV of the Code of Conduct. The Dean also may develop interim measures at a later date, depending on the circumstances, and may modify them at any time.
- Discuss the consequences of [failing to appear](#) or participate.

The Dean of Students or a designee will meet separately with the reporting party to

- provide him or her with information about the process and his or her [rights and options and available resources](#),
- provide the name and contact information of the trained advisor available to assist him or her (advisors are discussed in paragraph (B) of this Section V)
- explain the protections against retaliation, and
- discuss interim measures.

These two meetings will occur within no more than two working days of one another, unless extenuating circumstances exist.

B. Advisors for Reporting Party and Respondent. Each party may chose an advisor to support him or her through the administrative process, including advising on campus resources and services available to the student.

William & Mary trains a group of faculty and staff to serve as advisors, and assigns an advisor to each party based on advisor availability. A party may choose instead to use an advisor of his or her choice,

such as a friend, family member, or lawyer. These outside advisors are not trained by the university. If a student uses an outside advisor, the student will continue to have access to the trained administrator. In this situation, the trained administrator will serve as a consultant to the student but may not accompany the student to interviews or meetings or to the hearing. This avoids scheduling delay and disruption.

- An advisor may accompany the party he or she is advising to that party's interviews, meetings, and the hearing, but may not actively participate or intervene. If an advisor has questions or concerns, he or she may request to meet separately with the investigator or other university official. An advisor may quietly and briefly confer with or advise the student he or she is advising. An advisor who disrupts a meeting, interview or proceeding will be required to leave the proceeding. The Dean of Students will decide whether the advisor may continue in his or her role.
- Parties may share records and investigation communications with their advisor, if they and the advisor complete consent and confidentiality forms.
- Because of the importance of prompt processing of reports, advisors are expected to modify their schedules to attend meetings and hearings. The university typically will not reschedule hearings or grant extensions to accommodate advisor schedules. Arrangements may be made to allow participation by phone or other technologies.
- William & Mary cannot provide "equal" advisors. Certain advisors may have more experience or different skills than others.
- A party may change advisors during the process, but the university cannot ensure that a replacement advisor will be available or will have adequate time to gain familiarity with the matter.

C. Conduct of Investigation. Investigation is conducted by trained investigators, typically university employees, including staff of Student Affairs and/or the Office of Compliance & Policy.

Investigations typically consist of interviews of the parties and witnesses and collection and review of evidence such as documents, photographs, text messages, and IT records such as emails. Investigations generally will take no more than 20 calendar days, though extensions can be granted for complex investigations or university breaks (as provided in Section VI(H)). Each party may introduce evidence during the investigation and may offer suggestions as to what witnesses are available to provide relevant information.

Third parties other than advisors are not permitted to be present during interviews; interviews are attended by the interviewee and the investigator(s), and a note-taker (in the discretion of the investigator(s)).

If allegations or evidence of retaliation or misconduct relating to the investigation itself (witnesses collaborating, for example) arise during the course of the investigation, the investigator will consult with the Dean of Students and/or the review team to determine whether interim measures are necessary to respond to the reported retaliation or misconduct, and to decide whether to address the reported retaliation or misconduct as a separate conduct matter or as part of the current investigation. If they are addressed as part of the current investigation, the investigation may take additional time to conclude.

The investigator(s) will prepare an investigation report. The report typically will:

- describe the allegations investigated including the elements of each alleged policy violation,
- describe the investigation, i.e., the witnesses interviewed and evidence collected
- include a timeline of events, if useful, and
- summarize the relevant evidence discovered, including which elements of each allegation are disputed and the relevant evidence, corroborating or contradicting. As an example, a report may state that sexual contact was not disputed and that the only disputed issue is whether effective consent was given/received, then proceed to present the evidence found (witness statements, records, etc.) relevant to the existence of effective consent.

The investigation report will not include conclusions as to whether there has been a violation of law or policy.

The investigator(s) will provide a copy of the investigation report, in draft form, along with relevant evidence collected to the Dean of Students. The Dean will review the draft report for procedural compliance and to identify any issues for additional investigation, which shall take no longer than five calendar days. The Dean may make redactions as required by privacy law. The university is not bound, however, by legal rules of evidence, and is not obligated to redact information. The Dean of Students, in consultation with the Title IX Coordinator, will decide which allegations will proceed forward to adjudication/resolution.

When the Dean of Students' review is complete, the Office of Student Conduct will notify each party in writing of the allegations proceeding forward, and provide each party a copy of the investigation report.

The parties will have 72 hours after receipt of the investigation report to make written comments regarding the report and to submit any additional information. These comments and information will be shared with the other party, the Dean, the Director, and the investigator(s). The Dean or Director may, in his or her discretion, make redactions, corrections or additions to the investigation report based on comments submitted by a party. The Dean or Director may also request additional investigation or clarification from the investigator. The Dean or Director will share with the parties the results of any redactions, corrections, or additions to the report and any additional investigation.

V. Information Session; Resignation Option; Adjudication/Resolution Methods

A. **Information Session.** The parties will be directed to appear, separately, for an information session with the Director of Student Conduct (“Director”) or designee. This session typically will take place between three and five working days after the dissemination of the investigation report. This session is an opportunity for the students to receive information about the process, including options for resolution, and to discuss the investigation.

- If a respondent fails to appear at the information session after proper notification, the Director may place a hold on the student's records (which prevents a student from registering or engaging in other transactions with the university) and/or prepare written charges and notify the respondent that the matter has been scheduled for a hearing.
- Within 72 hours of the information session, a respondent may choose to resign permanently from the university if the Dean of Students approves this option. If approved, the Dean of Students will direct that the student's official records, including the transcript, will carry the following designation “Resigned under suspicion of a serious violation of the Code of Conduct (or in the case of alleged sexual violence, “Resigned under suspicion of a violation

of the Sexual Misconduct Policy”). Ineligible to return.” The student must certify, via a notarized letter, that the student understands that he or she will never seek or receive admission into any William & Mary program in the future. The student will not be able to be present on campus property, streets and property adjacent to campus, and/or attend university-sponsored functions or activities. The student will leave the university with the status “not in good standing.”

Permanent resignation will result in no other disciplinary process being conducted with respect to the resigning student. The university may, however, investigate the matter as needed to determine whether a hostile environment existed and/or what remedial steps are warranted.³⁹

In exceptional circumstances, when definitive proof of a resigned student’s non-responsibility exists, he or she may request a waiver of resignation and readmission or a removal of the transcript notation. This request must be made to the Dean of Students. A not guilty verdict in a criminal court is not, in itself, definitive proof of non-responsibility, as courts apply different standards of proof, follow different evidentiary and procedural rules, and adjudicate legal violations with elements different from university policy. Similarly, a failure to prosecute does not constitute proof of non-responsibility. Examples of definitive proof include video recording or DNA evidence proving that a different person committed the alleged misconduct. The Provost will consider the petition and determine whether to resume the investigation and hearing process under this procedure or conduct an extra-procedural process of evaluating the petition, such as where the reporting party is not available to participate in the hearing process. The reporting party will be given the opportunity to respond and participate in the evaluation process, to the extent feasible.

B. Determination of Resolution Method. Within four days of the final information session, the Director will notify the parties of which method will be used to resolve the allegations:

1. **Administrative Resolution:** If the respondent, reporting party, and the Director all agree to a written summary of facts which include specific violation charge(s), and sign a written waiver of a hearing, the Director may resolve the matter via administrative resolution. An administrative resolution consists of a statement of facts and a charge of specific violation(s) of the Student Code of Conduct, to which the respondent accepts full responsibility. Consistent sanctions shall be imposed by the Director in consultation with the Title IX Coordinator. An administrative resolution may be appealed by either party only on the basis of inappropriate sanction. See Section IX for the appeal process.

2. **Sexual Misconduct Hearing Board:** Either party or the Director may elect to resolve the case through a formal hearing before a Sexual Misconduct Hearing Panel, a three-person group selected from the Sexual Misconduct Hearing Board. The Board is comprised of four administrators and four faculty members appointed to three-year renewable terms by the President upon recommendation of the Vice President for Student Affairs and four non-voting students appointed to two-year terms by the Vice President for Student Affairs. The Board members receive specialized training related to Title IX, relevant policy and procedures, and matters relevant to adjudication including assessing credibility.

³⁹ This investigation would be conducted when, for example, remedying the hostile environment requires institutional action requiring an adjudicated finding.

Notification of Hearing. Typically, the Director will [schedule a hearing](#) with the Sexual Misconduct Hearing Panel for a date no more than seven calendar days after the adjudication method is chosen and inform both parties in writing of the date, time, and place of the hearing at the time the adjudication method is selected. The Director also will provide the parties and the Panel with a copy of any information other than the investigation report to be considered by the Panel at least three days prior to the hearing.

VI. General Procedural Considerations

- A. Timeline.** The investigation and adjudication, including notification of outcome but not including any appeal(s), will be completed within 60 calendar days of a report being filed with the Dean of Students, unless the Vice President for Student Affairs grants an extension for good cause or interrupted by a scheduled or unscheduled break in university operations (including winter break) of more than three working days.
- B. Roles.** The individuals specified in this process may recuse themselves, delegate their roles to others (with the exception of Hearing Panel members, who may be substituted only by the Dean of Students) as necessary to ensure impartiality or to accommodate leave or professional or personal conflicts. A party may request recusal or substitution of Hearing Panel members through the Dean of Students by specifying the nature of the conflict. The Dean will consider the request, the alleged conflict, and determine the appropriate steps for managing any conflict that exists.
- C. Reporting Party Withdrawal of Participation or Request to Halt Investigation or Adjudication Process.** If a reporting party wishes to cease involvement in the process, or no longer wants the process to continue, the Dean of Students will consider carefully whether the university is obligated to proceed forward or whether the party's wishes may be respected, based on the factors described in Section V of the Policy on Student Sexual Harassment and Misconduct, Dating and Domestic Violence, and Stalking.
- D. Combined or Multiple Violations.**
1. Combined or "joint" hearings: In cases where more than one student is charged with misconduct for the same, or substantially similar, incident, the university may hold a single hearing on the matter, but findings must be determined for each individual student charged in the incident.
 2. Multiple charges and single hearing: The university may adjudicate multiple charges at one time if they stem from the same incident or are based on a pattern of behavior close enough in time or related sufficiently by their nature to be reasonably resolved in a single proceeding. Questions about the use of a single proceeding to resolve multiple charges will be decided by the Dean of Students.
 3. Alleged violations of different policies: Should an incident result in an allegation that a student has violated both the Sexual Misconduct Policy and another applicable policy, such as the Honor Code or the Student Code of Conduct, the allegation will be processed under this procedure to ensure compliance with Title IX. A charged party may not face more than one proceeding to determine the final disposition of a single incident.
- E. Students with Disabilities.** The university is committed to providing reasonable accommodations for students with documented disabilities, in accordance with the

[Accommodation Policy and Procedure](#). Such accommodations may include, but are not limited to, administrative assistance, additional time, and/or an alternative to the formal hearing process. Students with disabilities who need reasonable modifications to address a suspected violation of the Sexual Misconduct Policy are encouraged to meet with the Director of Student Accessibility Services (109 Campus Center) as early in the process as possible to identify and plan specific accommodations. Students typically will be asked to provide medical documentation. The Director of Student Accessibility Services will inform the Office of Student Conduct and any other administrators with a need to know of appropriate accommodation(s).

F. Failure to Appear.

1. Failure to appear for appointments: If a respondent fails to appear for a scheduled appointment or otherwise fails to respond to a written direction to appear after being properly notified, the Director may bring a charge of Abuse of the Conduct System, and/or place a hold on the student's records. In addition, the Dean or Director may reduce the charges to writing and set a hearing date without consulting the student.
2. Notice: Proper notice will consist of an email sent to a student's official W&M email account, written notice delivered through either W&M or U.S. Mail to an address in the Registrar's records, or a letter delivered personally by university staff, including Residence Life student staff. In general, correspondence will be sent via email when classes are in session and to the student's home address when classes are not in session.
3. Failure to appear for a hearing: If after receiving proper notice of the date, time, and location of a hearing, a respondent fails to appear or to make him/herself available for a hearing without justification for postponement (as determined by the Director), the party will be deemed to have waived the right to appear, and the hearing may proceed as scheduled. Absence of the respondent in such circumstances will not constitute sufficient grounds for an appeal.

G. Witness Intimidation or Other Abuse of Process System. Students who contact witnesses or parties to intimidate them, influence testimony, harass, or circumvent the process in any way, may be responsible for retaliation or a charge of abuse of process. Students may not circumvent this provision by permitting advisors, friends or others to perform such actions on their behalf or for their benefit.

VII. Hearing

The purpose of the hearing is to determine whether sufficient evidence exists to conclude that a violation of university policy occurred and if so, to allow the university to remedy the violation in accordance with this policy.

A. Hearing Panel. The Panel is comprised of one faculty member and two administrators selected from the Hearing Board. An administrative member will act as the Hearing Panel Chair.⁴⁰ The respondent and reporting party will be provided the opportunity to elect to have a non-voting student member participate in the hearing. If there is a conflict between the respondent and reporting party as to this choice, the panel will proceed without the student member.

⁴⁰ The Director will assign a Chair, based on the administrators' respective experience and availability.

B. Presence of Parties at the Hearing. The parties are permitted, but not required, to be present throughout the hearing; a hearing may take place even if a party is no longer enrolled at the university and is not participating in the investigation process. The parties will be separated physically from one another during the hearing proceedings by a screen or other means of separation or may be placed in separate rooms to participate via video.

C. Hearing Preparation: Witnesses, Evidence, Prior Conduct History.

- Witnesses. The Chair may elect to call witnesses to the hearing as necessary to provide testimony not provided in the investigation report or to resolve conflicts in statements or issues of credibility. The Director and both parties may request that the Chair call certain witnesses to appear at the hearing at least 72 hours in advance of the hearing, indicating in writing the reasons they wish the witness to be called, what relevant information the witness will provide, and why they contend the witness is necessary to be present at the hearing. The Chair's decision as to whether to call the witnesses is final, although the decision not to call a particular witness can be the basis for appeal.
- Witness lists of individuals to be called by the Panel will be provided to each party at least 24 hours prior to the hearing. The Director will notify witnesses of the date, time, and place of the hearing and will instruct university-affiliated witnesses of their duty to cooperate.
- Evidence and Questions. If parties have evidence that was unavailable at the time of the investigation, the parties have the right to introduce documentary and other evidence to be considered by the Panel at the hearing; however, the party must establish the reasons why the information was not available previously, and the Chair will determine if the proffered reason is legitimate. Each party also has the right to propose questions to be asked of the other party by the Chair. The Chair will decide on the appropriateness and relevance of any proposed questions; the Chair's decision regarding these matters is final, although the decision can be the basis of an appeal. Evidence and proposed questions must be submitted to the Chair at least 72 hours prior to the hearing.
- Prior Disciplinary Record. In advance of the hearing, the Director will offer the respondent the opportunity to address any previous disciplinary record in writing to the Panel, in the event that the Panel finds the student responsible. The student's response will remain in a sealed envelope and will be provided to the Panel for consideration in proposing sanctions to the Dean, if it finds the student responsible.

D. Separation of Witnesses. During the course of a hearing, the Chair or Case Administrator may separate witnesses to preserve the independence of their testimony. If separated, no witness who has already provided testimony may have contact with any witness due to testify

E. Past Sexual Histories/Evidence of Other Sexual Misconduct or Harassing Conduct.

1. Prior Sexual History of a Reporting Party. In general, a reporting party's prior sexual history, character or reputation is not relevant and will not be admitted as evidence at a hearing. Where there was a relationship between the reporting party and the respondent and consent is at issue, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties or to explain physical evidence. As specified in the Sexual Misconduct Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

Any prior sexual history of the reporting party with other individuals is not relevant and will not be permitted, except to explain injury.

2. Evidence of Other Sexual Misconduct or Harassing Conduct by a Respondent. The following types of evidence may be considered including in a hearing: (a) evidence of conduct similar in nature to the alleged misconduct by the respondent, (b) evidence of a pattern or to be considered together with the alleged misconduct in determining whether a hostile environment was created, (c) evidence relevant to proving intent, state of mind, or identity. Such evidence may be considered regardless of whether there has been a finding of responsibility as to the other conduct.

G. Postponement. Either party may request one postponement of the hearing, citing the reasons for the request in a written statement to the Director at least 72 hours in advance of the hearing, except in the case of emergency. The party may be requested to provide supporting documentation of the need for delay. The Director, in his or her discretion, may grant a postponement for good cause. The unavailability of an advisor, generally, will not be deemed to be good cause for delay.

H. Conduct of the Hearing. The Chair is responsible for the conduct of the hearing. He or she will follow the conduct procedures and will make determinations regarding relevance and permissibility of information offered by both parties. The Chair's decisions on these matters are final, but the decisions can be the basis for appeal. The Director or designee may assist the Chair in ensuring procedural compliance in the conduct of the hearing including by advising the Chair.

Any Panel Member and the Director may ask questions of the parties and witnesses, including any questions requested by a party approved by the Chair.

Each party will be given the opportunity to make a statement at the hearing and to submit questions to ask of witnesses and the other party. The chair will decide whether requested questions are relevant and necessary.

Students who appear before the Sexual Misconduct Hearing Panel, whether as parties to the proceedings or as witnesses, are expected to provide truthful information in accordance with the Honor Code.⁴¹

Advisors may attend the hearing. They may not actively participate in the hearing but the advisor may provide support and advice to the student, during recesses or breaks or through written notes.

I. Rules of Evidence and "Second Hand" Information. University proceedings do not follow the rules of evidence employed by courts of law. Information that does not come from a first-hand source (hearsay) may be considered. Lie detector/polygraph evidence is not permissible. Except as specifically provided in this procedure, the university is not required to consider evidence and may decide which evidence to exclude or consider.

⁴¹ A student may choose not to answer a question that may incriminate him or her, and if so, must so state.

- J. Determination of Responsibility.** The Panel will meet in closed session⁴² to determine whether the respondent has violated university policy as charged. The Director or designee will advise the Panel regarding relevant policy, precedent, and process for evaluating the evidence presented, and may participate in the deliberations, but does not have a vote.

In order to find the respondent responsible for misconduct, at least two of the three Panel members must conclude that a “preponderance of the evidence” exists. A preponderance of the evidence exists when a reasonable person, after a careful balancing of available information and assessment of witness and party statements and other evidence, concludes that it is more likely than not that the alleged violation occurred. The Panel makes this conclusion by considering each element of the alleged violation.

The Panel shall have up to two (2) calendar days after the hearing to make this determination and document their rationale. The dissenting Panel member may provide a rationale for his or her dissent.

- K. Determination of Sanctions.** Sanctions are determined by the Dean of Students, after reviewing the recommendations concurred to by at least two of three members of the Panel.

The primary sanctions for Sexual Harassment, Non-Consensual Sexual Contact, Stalking, Dating and Domestic Violence, and Sexual Exploitation range from Disciplinary Probation to Permanent Dismissal. The primary sanctions for Non-Consensual Sexual Intercourse range from Disciplinary Suspension of at least two full semesters to Permanent Dismissal; typically, the respondent is placed on Disciplinary Suspension for at least the period during which the reporting party is enrolled at the university. [See Section VII of the Code of Conduct](#) for further general information regarding sanctions including a full list of potential primary and secondary sanctions.

If the Panel finds the student responsible for one or more violations, the Director will brief the Panel regarding any previous violations of the Conduct or Honor Code by the respondent, any precedent for similar situations, and any additional relevant information, including information provided by the respondent to address prior record. After hearing all information regarding sanctions, the Panel will make a sanction recommendation to the Dean of Students within two calendar days.

See Section VIII(F) of this procedure for the effect of an appeal on sanctions and interim actions.

- L. Hearing Records.** The Director and the Chair will summarize the hearing, the evidence presented, the Panel’s determination and the reasoning for the determination and any sanctions recommendations. The non-closed portion of the hearing will be recorded via digital media. This record will be assembled and sent to the Dean by the following business day after determinations of responsibility and recommendations of sanctions are made by the Panel.
- M. Case Review and Notification; Further Remedial Steps.** Typically within three calendar days of receipt of the information above, the Dean of Students or designee will review the case documents and decision and will return for reconsideration or rehearing to the Panel any finding that is inconsistent with university policy or practice.

⁴² The parties will be excused, and the hearing will be deemed closed.

The Dean of Students also will determine, in consultation with the Title IX Coordinator, the sanctions to be imposed (see paragraph J above) and any other steps needed to remedy a hostile environment, prevent misconduct, or help remedy the harm done to the reporting party.

Potential remedies for reporting parties include:

- arranging for the reporting party to re-take a course or withdraw from a class(es) without penalty
- extending any interim measures described in Section III(F)
- determining if there is a causal connection between any previous disciplinary action taken against the reporting party and the misconduct.

The Dean of Students or designee will notify both parties in writing of the decision in the case, the findings on which it was based (the rationale), and any sanction(s) imposed. This notification will be communicated at approximately the same time. If there are sanctions that do not directly relate to the reporting party, the reporting party will be informed of these sanctions to the extent permitted by federal law.⁴³

VIII. Appeals

A. Right of Appeal. Both parties have the right of appeal. The Provost or designee reviews all appeals. In preparation for a possible appeal, either party will have supervised access to the hearing records upon appointment.

B. Timeline and Form of Appeal. Appeals must be submitted to the Director of Student Conduct within five working days following written notification of the decision. All appeals must be in writing and clearly cite the grounds for the appeal and the evidence supporting it.

C. Grounds for Appeal. Parties may appeal on the following grounds:

- i. Procedural irregularity. Procedural or technical deviations will not be sufficient to sustain an appeal unless found to have denied the appealing party a fair process.
- ii. Discrimination (as defined by the Policy on Discrimination, Harassment, and Retaliation), which caused an unfair process.
- iii. The decision is inconsistent with the weight of the evidence. In reviewing an appeal based on this ground, the Provost does not replace the judgment of the Hearing Panel with his or her own; he or she reviews the matter to determine whether the evidence presented appears sufficient to support a determination based on the preponderance of the evidence standard.
- iv. New material evidence which is not merely corroborative or repetitive, which was unknown or unavailable to the party at the time of the hearing and pertinent to the case.
- v. Inappropriate sanction.

D. Appeal Process. If a student files an appeal, the Dean of Students or designee will promptly notify the other party of the date the appeal was submitted and grounds for the appeal, and provide him or her with access to the appeal itself. The other party has [three] working days to

⁴³ The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the Family and Educational Rights and Privacy Act, and the Violence Against Women Reauthorization Act of 2013 each have provisions relating to disclosure of sanctions for sexual misconduct.

provide a written response to the appeal to the Director. The Dean of Students or designee will promptly present the appeal to the Provost, and provide the Provost with access to all relevant case records. The Provost retains the option of conferring with appropriate administrators, in order to obtain information necessary to make a fully-informed decision.

The Provost shall render a determination on the appeal within ten working days of the receipt of the appeal packet from the Dean of Students. The Provost's determination is final and not subject to further appeal.

E. Appellate Outcomes. The possible outcomes of the Provost's review of the appeal are:

- i. There is insufficient basis to grant the appeal. The Provost will dismiss the appeal, and the original decision will stand.
- ii. The Panel's determination was not supported by the evidence. The Provost typically will modify the determination; he or she may order a new hearing.
- iii. The sanction administered is inappropriate. The Provost, in consultation with the Title IX Coordinator, will determine a sanction that is appropriate given the facts and circumstances of the case and precedent.
- iv. Substantial procedural error has occurred that can be remedied by a new hearing; the Provost may order that a new hearing take place.

F. Respondent Status During Appeal. If the sanction being appealed includes suspension or dismissal, the student will not take part in any university function (academic, social activities, student activities, etc.) except scheduled classes while the appeal is pending without the written permission of the Dean of Students.

Interim measures will continue pending appeal, unless modified or lifted by the Dean of Students.

In those cases where the Dean determines that the continued presence of the student constitutes a risk to the educational process, to him/herself, or to the safety of others, the Dean may prohibit the student from attending classes until the appeal is complete.

G. Notification of Appeal Decision. Both students, the Hearing Panel, and the Dean of Students will receive written notification of the decision regarding the appeal, including the reasons for the decision if appropriate. This written notice will be provided contemporaneously, except in unusual circumstances when a party's lack of availability or other circumstance would result in undue delay in notification.

X. Approval, Amendment and Interpretation.

This procedure was approved by the President. It was amended effective February 6, 2015 to (1) separate the procedure from the Sexual Misconduct Policy, (2) provide student parties with administrative advisors, (3) reflect university practice of conducting investigation prior to information sessions, (4) make adjudicative option selection (that is, the choice of administrative or hearing resolution) equitable, (5) refine the hearing process, (6) modify the composition of the hearing board, (7) modify the process of determining sanctions, (8) streamline the appeal process

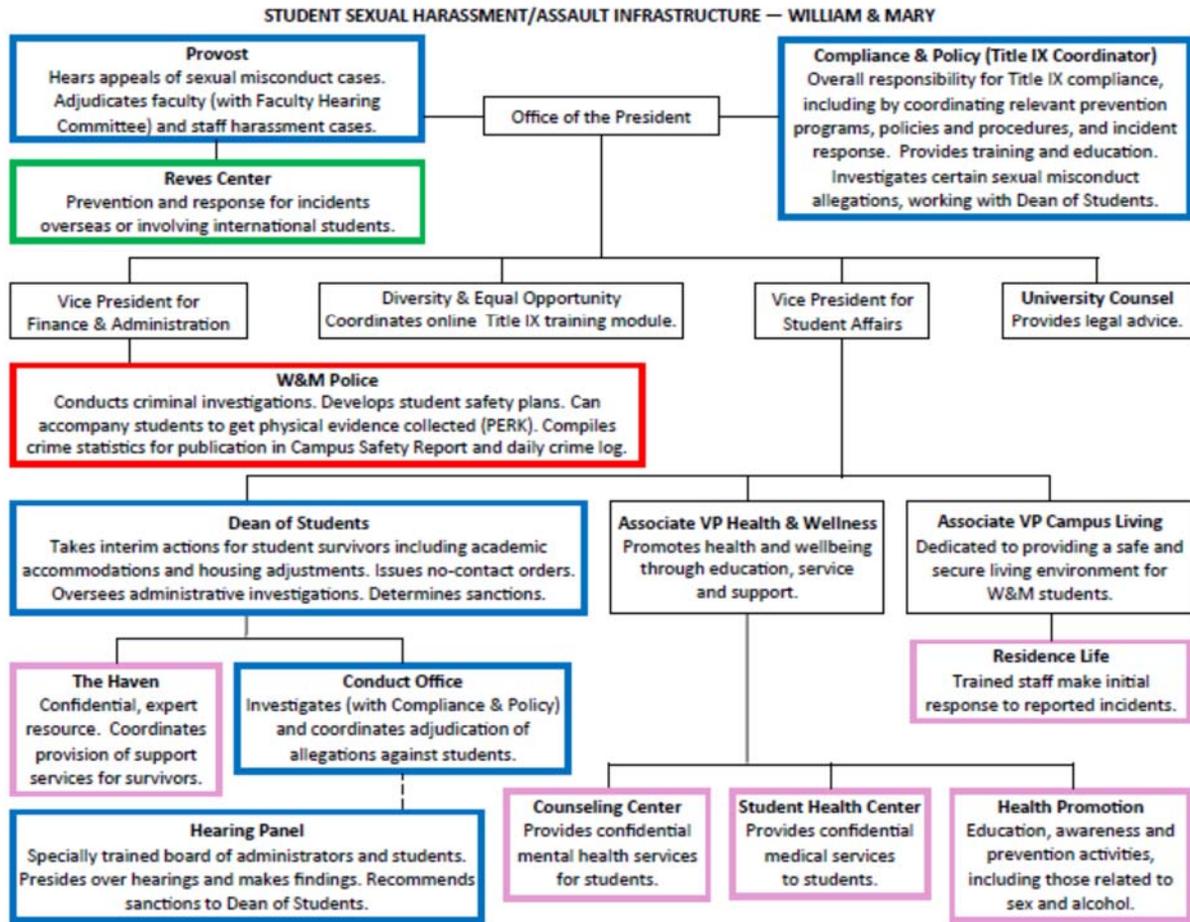
and provide fully equitable appeal rights, (9) provide a process for resigned students to seek readmission, (10) increase the minimum sanction for findings of non-consensual sexual intercourse to two semesters suspension, and (11) make other important modifications and improvements to ensure compliance with applicable law and regulatory guidance.

This procedure was amended effective [____], 2015, to (1) comply with Virginia law effective July 1, 2015, by addition of an initial assessment process and noting university actions on the transcript, (2) expanding and detailing the role of advisors and the consideration of past evidence or evidence of other sexual misconduct, (3) clarifying several provisions including those regarding the role of the Director in the conduct of hearings, (4) insert several standard provisions from the Code of Conduct, and (5) make slight modifications to several deadlines.

The Vice President for Student Affairs, in consultation with the Title IX Coordinator and with notification to the President, may make minor or technical revisions to this procedure.

The Dean of Students and the Title IX Coordinator are responsible for interpreting this procedure.

Appendix C: Student Sexual Harassment/Assault Infrastructure



Boxes highlighted in blue have active roles in investigation/adjudication of complaints. Boxes highlighted in pink provide counseling and support services.

Appendix D: Student Conduct and Title IX: Gold Standard Practices
(Association of Student Conduct Administrators Publication 2014)



**Student Conduct Administration & Title IX:
Gold Standard Practices for Resolution of Allegations
of Sexual Misconduct on College Campuses**

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**ASCA 2014 White Paper:
Student Conduct Administration & Title IX: Gold Standard Practices for Resolution of
Allegations of Sexual Misconduct on College Campuses**

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) requires that institutions of higher education address issues of sexual discrimination, which include sexual assault, affecting their students. The White House, Congress, the U.S. Department of Education's Office of Civil Rights (OCR), the media, students, and parents are demanding effective and fair resolution procedures. Campuses are left searching for how to resolve these cases and are being questioned as to whether they can adequately address crimes of sexual violence that may come before them. In response, the chief leadership of the Association for Student Conduct Administration (ASCA) has compiled a summary of "gold standard" practices for resolving these cases through student conduct procedures. As the experts in student conduct administration, ASCA is the national association for student conduct professionals and currently has more than 3,100 members from more than 1,500 institutions.

There is no one-size-fits-all model for addressing incidents of sexual misconduct. With different missions, resources, staffing models, funding sources, system policies, and especially campus cultures and student populations at postsecondary institutions across the United States, each college or university must develop its own policies and procedures. This report (a) identifies the guiding principles that should underlie all student conduct policies and procedures, as well as the recommended practices that are required for an institution to be a "gold standard" in responding to allegations of sexual misconduct, (b) outlines differences among various types of resolution methods (i.e., single-investigator, hearing board, or hybrid model), and (c) provides guiding questions for institutions to consider as they determine the most effective resolution method(s) for their unique campus environments.

First and foremost, it is important to understand that a learning-centered, fundamentally fair student conduct process should occur on all campuses. Institutions must remember that they have an obligation to all students, including students who may have been harmed, students who are accused of causing harm, and the rest of the student body. All students (including victims, complainants, respondents, and witnesses) involved in the student conduct process should be treated with care, concern, honor, and dignity.

Campuses are not meant to be courtrooms, and the courts support this distinction. While television shows such as *Law and Order* might be the only frame of reference that parents, students, and others may have, we must teach them that campus proceedings are educational and focus on students' relationships to the institution. The field of student conduct is rooted in ensuring that individual students' rights are upheld as they engage in an educational process about the behavioral (and sometimes academic) standards of the campus community. This involves a reasonable process for the institution to determine whether behaviors have violated campus policies and to impose appropriate consequences if necessary. For behaviors that may violate college policies and the law, victims are encouraged to pursue criminal procedures if they seek outcomes beyond the jurisdiction of what the campus can offer or impose.

There are five stages of student conduct resolution procedures: policy, initial interactions, investigation, adjudication, and institutional response. Within each of these are recommended practices that can help an institution to address and resolve incidents of sexual violence effectively. This report is supplemented by appendices containing guiding documents that institutions can use to improve their student conduct resolution procedures.

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Recommended practices include but are not limited to the following:

- All employees should be trained on the basics of the campus policy, resolution process, and how to provide information to students about their options for support.
- Mandated reporting, mandated sanctions, or other such requirements should be carefully considered, as they may discourage reporting.
- A victim's request for confidentiality should be honored when possible, but the request must be weighed against the institution's obligation to all students.
- Legalistic language (e.g., rape, judicial, justices, prosecutor, defense, guilty) should be removed from policies and procedures. ASCA recommends use of "student conduct" instead of "disciplinary" or "judicial" to reflect the spectrum of student conduct practices.
- Consider what students find reasonable when determining and writing policies and procedures; communicate procedures widely and follow them.
- Ensure that behavioral standards for employees, students, and community members are compliant with Title IX. If there are distinct resolution processes depending on whether the accused is an employee or a student, ensure that both operate effectively and are communicated clearly to students.
- Effective interim actions, including multiple forms of remedies for the victim and actions restricting the accused, should be offered and used while cases are being resolved, as well as without a formal complaint.
- Select a resolution method that fits the institutional culture and promotes the best resolution process for students. It should contribute to creating a culture of reporting; it should not mirror the criminal process.
- Use the preponderance of evidence (more likely than not) standard to resolve all allegations of sexual misconduct
- The proceedings should be equitable and sensitive; there should be no direct questioning of respondents and victims by each other, and the parties need not be in the same room.
- Both complainants and respondents may consult with an advisor of choice, but institutions should impose guidelines limiting advisors' participation in student conduct proceedings.
- Training campus experts should include the Title IX team/coordinators, investigators, adjudicators, appeals board members, and so forth. Trust in them to revise policy and procedure annually as needed.
- Devote adequate staff, resources, and funding to manage cases. Investigators must be able to set aside other responsibilities to ensure that investigations are prompt and thorough.
- A Title IX team should be developed to review and revise policy, assess campus climate, lead prevention efforts, and assist the Title IX Coordinator

Given the importance of expanding understanding of the role of campus conduct processes in resolving the societal issue of sexual violence, the full report is available free to the public at <http://theasca.org>. This report will also be disseminated to the White House, the Department of Education's OCR, higher education associations, legislators engaged in discussions about pertinent federal or state mandates, and other relevant entities.

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Section I. Introduction: The Intersection of Title IX and Student Conduct Administration

On June 23, 1972, Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) was signed into law; it states, “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.”¹ Over the past 40 years, higher education has learned more about what the Department of Education’s OCR expects with regard to policies, procedures, investigations, interim and permanent remedies, and other aspects of cases subject to Title IX. As of June 2014, institutions strive to achieve compliance amid a critical atmosphere with many seemingly valid viewpoints as campus processes are under scrutiny by victims, parents, accused students, attorneys, the media, the U.S. government, and watchdog groups. Victims/survivors are filing OCR complaints about how colleges are (or are not) addressing incidents, forcing campuses to reconsider policies or procedures that may currently be weighted toward protecting accused students more than those whom they may have harmed. While there is discussion suggesting that campuses leave behaviors that also may constitute a crime (e.g., rape) to the police and courts, Title IX describes the campus’s obligation to respond when a potential criminal behavior based on sex or gender affects the ability of a student to participate in his/her education or campus programs. Further, student conduct practitioners have an unlegislated, philosophical obligation to address any misconduct that adversely affects the campus community. As “dedicated professionals striving to positively affect student behavior while respecting individual rights as defined by the law and the institutions’ missions,”² student conduct administrators are positioned to be the most effective and impartial at leading campus management of these cases. In fact, many of ASCA’s long-held beliefs and training curricula have been consistent with the federal government’s recent guidance.

Often, student codes of conduct and their related procedures apply to behaviors exhibited by an institution’s students while policies under Human Resources govern the behaviors of employees. Regardless of whether the behavior was exhibited by a student, employee, or community member, the campus has an obligation under Title IX to protect a harassed/affected student’s access to an education. Sometimes a hostile environment may be present, even if the individual(s) who caused it cannot be identified. OCR has made it clear that student conduct processes to address sexual harassment and sexual violence on campus cannot exist in a vacuum and that imposition of sanctions alone is not an adequate institutional response.³ While there are many aspects to effective Title IX compliance, this document focuses on student conduct policies, investigation, and resolution procedures that are critical components of comprehensive institutional compliance efforts.

Since the enactment of Title IX in 1972, the field of student conduct administration has changed dramatically, moving from the *in loco parentis* Dean of Women/Dean of Men disciplinary model to one that includes an array of resolution options. In 1986, the Association for Student Judicial Affairs (ASJA) was formed to serve the unique needs of campus judicial officers. In 1993, ASJA began to offer an intentional training institute to equip student affairs professionals with skills to conduct effective adjudication efforts on their campuses. In 1994, the Violent Crime Control and Law Enforcement Act (Pub. L 103-322) was passed and raised the question as to “the ability of educational institutions’

¹*Title IX and Sex Discrimination*. U.S. Department of Education’s Office for Civil Rights. Retrieved from: http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html.

²Daisy M. Waryold & James M. Lancaster, *The State of Student Conduct Current Forces and Future Challenges: Revisited* (Association for Student Conduct Administration, 2013), 10.

³Questions and Answers on Title IX and Sexual Violence, p. 25, Retrieved from <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.



disciplinary processes to address allegations of sexual assault adequately and fairly.”⁴ In 2000, Sophie Penney, Lawrence Tucker, and John Lowery led efforts to conduct a national baseline study on the adjudication of sexual assault cases, with a return rate of 41% from 170 residential, commuter, public, and private institutions. The survey explored institutional protocols for addressing reported incidents of sexual assault, including methods of adjudication, the standard of proof used, investigation procedures, training of hearing board members, roles of attorneys and advocates, and rights afforded to complainant and respondent. The study resulted in recommendations to ASJA practitioners that parallel some current OCR guidance, such as providing both the complainant and respondent with written notice of charges and employing practices that promote a culture of reporting.⁵

In 2004, Ed Stoner and John Lowery published the “Model Code,” which became a blueprint document for campuses to benchmark and revise their policies and procedures to protect the rights of accused students and of complainants/victims while promoting campus community standards. The philosophy underlying the model code was to treat all students with equal care, concern, respect, and dignity, which is very much in line with the equity principle discussed in the April 2011 Dear Colleague Letter. In 2008, the Association’s name was changed to the Association for Student Conduct Administration (ASCA) to reflect the philosophical shift from antiquated legalistic and courtroom-like proceedings. In 2014, ASCA incorporates equity for all participants in the conduct processes to meet the needs of its 3,100+ members at more than 1,500 institutions, including residence hall directors, single-person conduct officers, community college professionals with multiple responsibilities, Vice Presidents, and Deans of Students. Membership in ASCA and attendance at the ASCA Gehring Academy are now common requirements in student conduct-related job descriptions. Despite the changing nature of the field, ASCA has consistently focused on equipping student conduct administrators with practical skills related to the overlap of legal influences and student learning in order to address student behavior effectively through an educational and socially just lens.

Ultimately, this resource serves to provide a set of best practices that underlie a fundamentally fair conduct process for *all* students affected by sexual misconduct. While there is overlap, this document does not address aspects of Title IX institutional compliance requirements often found outside of student conduct, such as preventative education or victim advocacy, nor does it focus on Clery Act reporting requirements. These recommendations for effective student conduct practice are based on a review of the existing administrative, legislative, and judicial guidance related to Title IX (see Appendix A for a list of sources), feedback from the ASCA Sexual Misconduct/Title IX Community of Practice, and the collective experiences of the practitioners serving as the chief leadership of ASCA. These principles and key concepts can also be applied to types of cases beyond sexual misconduct. We believe that this is the first document of its kind, written by and for current practitioners in the field, as well as for those who are involved in providing guidance or discussing potential laws regarding how colleges handle conduct complaints pertaining to sexual misconduct.

⁴Sophie W. Penney, Lawrence Tucker, and John Wesley Lowery, *National Baseline Student on Campus Sexual Assault: Adjudication of Sexual Assault Cases: A Study by the Inter-Association Task Force of the Association for Student Judicial Affairs*. Association for Student Judicial Affairs (2008): 2.

⁵Penney, Tucker, and Lowery.



Section II. Guiding Principles

Regardless of institutional type or campus culture, some overarching philosophies are at the heart of fundamentally fair and equitable student conduct procedures. These principles aim to treat all students with respect, care, and dignity, no matter what role they play in the student conduct process. These underlie the training and programs offered by ASCA and are re-iterated in the guidance from OCR.

First and foremost, student conduct is an educational process. Student conduct professionals transform student behavior by establishing and disseminating policies, providing preemptive education, having conversations to challenge students' perspectives, facilitating resolution of complaints and conflicts, and implementing accountability measures (sanctions) when necessary. The educational nature of student conduct procedures is supported by a fundamental guiding legal document, the *General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline at Tax-Supported Institutions of Higher Education* (Western District of Missouri, 1968), which was written by a group of federal judges from Western Missouri. It states, "The discipline of students in the educational community is, in all but the case of irrevocable expulsion, a part of the teaching process. In the case of irrevocable expulsion for misconduct, the process is not punitive or deterrent in the criminal law sense, but the process is rather the determination that the student is unqualified to continue as a member of the educational community."⁶ Just as we offer academic instruction, we also have a responsibility to educate students on the impacts of their behaviors on others.

Effective student conduct procedures directly support the mission of the institution and the role of higher education in the United States. Student conduct policies and procedures promote a positive learning environment for all students, educate students about their responsibilities as members of the college/university community, and allow an institution to impose educational sanctions fairly when behavior violates those standards.⁷ Students voluntarily join campus communities, and appropriate behavioral standards should be imposed in addition to societal laws, so long as they further the mission of the institutions while upholding basic civil rights of students. Most college and university mission statements include some form of institutional duty to prepare students for lifelong success and learning.⁸ This reiterates Thomas Jefferson's notion in the *1818 Report of the Commissioners for the University of Virginia* regarding the need for institutions to teach students to form "habits of reflection and correct action, rendering them examples of virtue to others, and of happiness within themselves."⁹ The functional role of student conduct administration on college campuses is to help students to translate knowledge into action—to form behavioral habits that will enable them to be successful beyond the brick-and-mortar or virtual walls of the institution. At times, to the dismay of parents, other students, faculty, and senior-level administration, decisions are not made *for* students nor do we control their actions, but we can influence their behavior.

⁶*General Order on Judicial Standards of Practice and Substance in Review of Student Discipline in Tax-Supported Institutions of Higher Education*, 45 F.R.D. 133 C.F.R. (1968).

⁷Edward N. Stoner II and John Wesley Lowery, "Navigating Past the 'Spirit of Insubordination': A Twenty-First Century Model Student Code of Conduct with a Model Hearing Script," *Journal of College and University Law*, 31(1), (2004): 4-5.

⁸*About Community Colleges*. American Association of Community Colleges. Retrieved from <http://www.aacc.nche.edu/aboutcc/pages/default.aspx>.

⁹Thomas Jefferson, "Report of the Commissioners for the University of Virginia". August 4, 1818. Found in eBook *Thomas Jefferson, Political Writings*. Authors: Thomas Jefferson, Joyce Oldham Appleby, and Terence Ball. Published 1999. p. 300



We have an obligation to respond to sexual violence that affects students. Recently, it has been asked why, when campuses do not respond to murder, they should respond to rape? The answer is that we *would* respond to murder. We would provide support and assistance to those affected by the behavior and we would most likely take action against the student who committed the act. We certainly would not wait for the legal system to act before we would act to protect the campus community. We would not call the act “murder”; the act would fall under a policy prohibiting physical abuse or physical harm. Our response to sexual assault is similar. We acknowledge that we are a microcosm of larger society and that no one can “guarantee” the safety of others, but we also recognize the significance of our influence on student behavior. We not only have an obligation to protect the members of our campus community; federal legislation requires us to do so—and it is the right thing to do. In his report Jefferson charged institutions “to establish rules for the government and discipline of the students.”¹⁰ We would be abandoning our own authority if we failed to address incidents of sexual violence affecting our students.

Campuses are not courtrooms. In cases involving behaviors that could violate college policy and law, we encourage use of the criminal and civil systems in addition to the campus process. We do not find students “guilty” of crimes such as rape or murder, but we have an obligation to determine whether they are responsible for conduct that threatens the health or safety of another person, including sexual misconduct. While campuses have a role in addressing sexual assault, our role is not to “bring perpetrators to justice.”¹¹ The most serious consequence that we can impose on a student is to prohibit the student from attending our college or university. A student should not need a lawyer to participate on his/her behalf in an educational campus process. We do not seek to replicate adversarial or litigious proceedings on our campuses because we believe that they do not support cultures of reporting and that they are antithetical to the goal of student learning. A comprehensive overview of the judicial support for this principle is detailed in the May 1, 2014 Law and Policy Report #487: *Campuses or Courts? Different Questions and Different Answers*. Given the importance of this topic, the copyright to that document has been waived and it is available free to the public on the ASCA website.

“Some kind of notice and some kind of hearing”¹² is still relevant. Dating back to *Goss v Lopez* (1975), our practices are built on ensuring that an accused student is informed of what policies may have been violated, has the opportunity to review any pertinent information, and has the opportunity to be heard by sharing his/her side of the story. To ensure the safety and the operations of the campus during this time, colleges may impose interim action (as well as other remedies under Title IX) while the situation is being resolved. Policies and procedures must be in compliance with applicable state and federal laws, while campuses have the flexibility to resolve complaints through whatever means are most effective, efficient, and equitable, given the variety of resources and support available on each campus. No single model fits all institutional types; there are important considerations for all options, including the single-investigator model, the administrative or panel hearing board model, or a hybrid model. Institutions are encouraged to think beyond the traditional formal “hearing” when considering resolution options.

Fundamentally fair means equitably fair to both parties. Student conduct professionals are often caught between individuals and groups with competing interests. Victim advocate groups promote an approach that is victim centered, while attorneys and watchdog groups often seek to keep campus processes weighted to the rights of the accused. Campus attorneys often advise us to take great care to protect the rights of accused students, but we must do the same for those who feel that they have been

¹⁰Jefferson, p. 309.

¹¹White House Task Force to Protect Students from Sexual Assault, *Not Alone: The First Report of the White House Task Force to Protect Students from Sexual Assault*, April 2014: ii.

¹²Stoner and Lowery: 12.



harmed. The complainant and the respondent are usually *both* students; we must treat them as such. This is not a new concept to student conduct professionals, as this value informed the Model Code and has been incorporated into the foundational training at the annual ASCA Gehring Academy since 1993.

Consider what your sophomore self would want. Think back to your sophomore year of college. What kind of policy would you understand and how would you even know to look for it? Who would you tell your story to first? Listen to victims on campus. Several OCR resolution agreements require campuses to create committees of students who give feedback about campus procedures and make suggestions for improvement to create a campus that does not tolerate sexual harassment. ASCA recommends that this be done proactively by having students involved in the policy revision process to ensure that policies and procedures make sense to them. OCR focuses on what *students* consider to be reasonable, especially in how to identify campus confidential and responsible reporters. In addition, the student body will likely have thoughts on who should hear these cases: a single administrator? a panel with a majority of students? We must respect the privacy of students once they are engaged in the process by sharing information only with those who need to know the information.

“Other duties as assigned” is not enough. Campuses must devote staff, resources, and funding to address cases involving sexual misconduct adequately. Calling Title IX compliances an “unfunded mandate” is not an excuse. Acknowledging that the caseload and nature of these cases looks very different on a residential campus with a team of hall directors and a centralized conduct office from a commuter technical school with one conduct officer, there is no one way to design a staffing model to process cases. Some campus officials may be wearing so many hats that the integrity of the process comes under question; there may be a need to provide staff who are dedicated to these cases. Each campus must assess its climate, caseload, and current staffing levels to determine whether enough staff and resources are provided to manage these situations effectively.

The conduct process alone is not enough. The Student Code of Conduct typically applies only to *student* misconduct. Under Title IX, students can also file complaints about behaviors by faculty, staff, and nonstudents when these behaviors affect access to education or programs. Also, the college may still need to conduct investigations and address behaviors affecting the campus, even if a victim does not wish to pursue the conduct process or if the identity of the person who engaged in the behavior is unknown. In addition to the formal conduct process, there are other ways to address campus incidents, such as education, additional monitoring, policy revision and dissemination, and remedies provided to those who are affected. OCR has put increased focus on the campus climate, so we should track trends and encourage reporting of themes and concerns, not just formal complaints. Finally, we cannot operate in a silo; the OCR guidance and White House Task Force reinforce a reality that we already know: It takes a campus-wide effort to change campus culture and to be compliant with Title IX.

Training is critical. No matter what resolution method is used, no matter who investigates or who makes decisions about complaints, those persons **MUST** be adequately trained. We must train anyone who interacts with students on a regular basis, including faculty, so they know how to refer students appropriately. Investigators and adjudicators must be trained on the complexities of same-sex relationships, the way trauma can be experienced by members of various ethnic backgrounds, and the dynamics of power in relationships, for example. Appendix C contains a list of suggested training topics.

Be reasonable. We have conversations every day about time, place, and manner. We cannot codify every possible student behavior that might violate campus standards. And yet, some of us seek specific and exact instruction from OCR or attorneys in order to implement new policy or to go forward. We must feel confident in determining what is reasonable, based on a comprehensive review of existing guidance, an understanding of our campus culture, and consideration of the experiences of our

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students, especially those who may feel victimized or harassed. In addition, not all details in the national guidance and regional resolutions from the OCR offices are exactly aligned. While we welcome additional training opportunities and advanced guidance from the government, we must use professional judgment to do what is best for our campus, acting in the spirit of available guidance.

Follow your policies. This is a fundamental rule in student conduct. Do not create policies or procedures that you will not actually practice. Do not make a college President or an attorney the Title IX Coordinator if he or she is not available for students or does not have time or expertise to oversee the process. Be sure that all employees know what to do if a student reports an incident. Equally important, do not have policies that contradict, conflict, or are misaligned. The same standards should apply to any act of sexual harassment, whether by a student, employee, or campus visitor. The consequences and remedies may look different, depending on the relationship of that party to the institution. Finally, have policies and procedures that students can understand and navigate. This can be especially challenging if policies are overly legalistic or if the student body (as in many community colleges) includes a high percentage of ESL students, students with disabilities who may need alternate format materials, dual-enrollment high school students, or students who have lower cognitive functioning.

These cases are complex. Many cases involve alcohol or other influences, partial or absent memories of what happened, few or no witnesses, and a student who has been harmed by someone whom he/she knows. Many of these cases would not likely be prosecuted in a court of law and involve making decisions based on available information. Despite the complexity, we have the responsibility and the means to address them effectively. It is important to evaluate each case and make improvements where possible. We often survey accused students about their experience, but we should survey *both* students about their experiences and then make changes where appropriate and necessary. Any case could result in one or both students leaving the institution, so it is important to invest adequate resources toward successful resolution. Also, any case could result in a lawsuit or OCR complaint, which does not necessarily mean that anything was done wrong. These are often very emotionally charged cases, with strong feelings on both sides. Some cases, even when conducted flawlessly, result in no one being happy with the results.



Section III: Standards of Practice

This section describes critical elements and recommended practices pertaining to cases of sexual misconduct that every campus should be incorporating, regardless of student population, size, institutional type, mission, public or private status, or Carnegie classification. Many of these concepts can be extrapolated to all student conduct complaints, as they are found in the foundational training provided through the ASCA Gehring Academy, infused in other ASCA programs, and reiterated by the OCR in their recent and historic guidance on Title IX. Promising practices are described for each of the five stages of the student conduct resolution process:

- A. **Policy:** *the expectations for student behavior and the procedures for addressing potential violations, both of which should be published widely to the campus community and anyone who might be affected by students' behavior on campus.*
- B. **Initial Interactions:** *the initial interactions that a student has with the process, following an alleged incident. This includes the reporting and intake process, requests for confidentiality, and interim measures imposed. This is also the stage at which an institution determines whether it has official "notice" and what its obligations for action might be.*
- C. **Investigation:** *the information gathering phase. This includes both formal and informal investigations, depending on the institution's obligations to act, the extent to which a request for confidentiality can be honored, and the surrounding climate concerns.*
- D. **Adjudication:** *the process by which a determination is made as to whether or not a policy was violated.*
- E. **Institutional Response:** *the campus actions that occur as a result of the outcomes of the adjudication. This can include imposition of sanctions, continuation or imposition of remedies for the victim, targeted or campus-wide educational responses, and enforcement of additional security or other such measures.*

Following the recommendations for each stage are questions for consideration. These questions are intended to serve as a starting point to help campus personnel to discuss the student conduct resolution process and identify areas that might need review or revision.

A. Policy

Include the critical components. We have developed a list of the key elements of a sexual misconduct policy based on effective student conduct practices, as well as a review of the guidance and settlement agreements from OCR (Appendix B). Many campuses already have many of these in place. As more guidance has been issued, the amount of information that must be contained in the policy has increased. This results in the need to balance compliance with effective and convenient delivery of the information. As Title IX applies to all behaviors of sexual or gender-based discrimination and the Clery Act applies to all crimes that may occur in Clery-reportable areas on or near the campus, institutions should also review policies and procedures beyond student codes of conduct and related procedures to ensure that students who experience discrimination by an employee receive appropriate remedies and procedural protections.

Communicate effectively and transparently. Whether it is in original or revised guidance, the recent Q & A Guidance, or the outcomes of OCR campus investigations, a common theme is that policies must be written in a way that students can understand them and they must be communicated to the campus in

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an effective manner. Both recent guidance and the White House Task Force Report convey that it is not enough to *believe* that we have effective policies; we must conduct ongoing assessments to ensure that they are effective. Students should understand what will happen if they report, if they are accused, if the case proceeds to a hearing, and so forth. Policies and procedures should not be buried in websites, catalogs, or at the end of annual security reports. In addition to campus-wide climate surveys, consider surveying those who participate in the resolution process: accused, victims/complainants, and witnesses.

Be nimble. Because policies and procedures must be transparent for the campus community and reflect the campus culture, there should be some vetting or review during the policy revision process. However, it should not take months to get policies passed, and non-experts (e.g., faculty, untrained attorneys, administrators removed from the conduct process) should not be permitted to block or hinder implementation of a Title IX-compliant policy. As state laws change, campuses must keep relevant definitions and procedures up to date. ASCA has long advocated comprehensive reviews of campus conduct codes every 2 to 3 years to minimize the need for complete overhaul of policies that have gone unrevised for years.

Questions for Consideration:

1. Does the policy include the elements included in Appendix B?
2. What search words can a student type into the college website to find this policy?
3. Does every faculty member, staff member, and student know about this policy? Where are they most likely to look for it?
4. How would a parent, spouse, or other family member learn about the policy and procedure?
5. Do students see themselves in the policy or procedures, or would they feel the need to involve an attorney or a parent in order to understand it?
6. Is the policy within two to three clicks from the main college website?
7. How quickly can we revise this if the laws change or we realize that we need to update it?
8. Do prospective students have easy access to this information?
9. Does the policy reflect the values of the campus community?
10. How does the policy help articulate that we do not tolerate sexual misconduct on the campus?

B. Initial Interactions

Make it easy to report. We believe that the initial interaction that a victim has with the campus will dictate the rest of his/her campus experience surrounding the incident. For example, if the first conversation includes something like, “You’re not going to want to go before a hearing board of three older faculty members that you might later have as instructors and discuss intimate details of your sex life,” that student is not likely to file a formal complaint. Think about “reporting” from a student point of view – what does it mean to “report” informally or seek help? Who do students think have responsibility to take action? Once you have a policy in place, do what you can to promote reporting. Consider online reporting, a 24-hour hotline, and accepting reports in person. Do not create barriers – you are still on “notice” of a complaint even if it does not come on a specific form or by a certain time of day. You are even on notice just by reading something in the local newspaper. Once you are on notice, you must do something. Doing nothing is *never* the right answer. Give both the complainant and the respondent a supportive environment in which to share information – which requires adequate training of your campus and especially those involved in the initial intake of complaints. Develop a pool of trained support persons who can be present with a respondent when he/she is informed that a complaint has

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been made. Remember, the primary responsibility of the person fielding the report is to capture a true and accurate narrative of the information, not to determine whether the information has merit.

Keep the campus AND the individual in mind. If an affected student does not want to proceed with the formal conduct process, follow the suggestions in the April 2014 OCR Q & A to determine whether the campus has a compelling need to pursue the complaint. Students should be aware that campus events designed to create space to discuss experiences in an open way, such as Take Back the Night, are not considered official notice of a complaint; although the College may be able to identify trends that should be addressed outside of a formal conduct process. The campus must also maintain the option to initiate complaints on its own behalf to protect the whole campus community if needed.

Interim remedies are not predicated on a formal campus conduct process occurring. Even without a formal complaint, the campus must take measures to protect an affected student. While our field has often focused on protecting the rights of accused students, we must put this focus on an equal level with that of the student complainant, and minimize burden on the complainant with regard to interim measures. If a student does not want to proceed with a complaint, the institution must still review and determine if it is part of a larger pattern of harassment and, if so, institute remedies to address it.

Questions for Consideration:

1. Who on campus do students talk to about their personal lives?
2. How can we expand faculty and staff skill sets in order to expand the possible pool of people that students might trust with their experiences?
3. How do we communicate to students that they can get help even if they don't want to report something formally?
4. What standards do we use to determine if we go forward, even if a victim asks us not to?
5. Do faculty know how to respond if a student asks him/her directly for an interim remedy?
6. Is our entire student conduct resolution process easy to explain to someone so he/she can make an informed decision as to whether or not to file a formal complaint?
7. How does a student learn about how to report an incident at 2am on a Saturday morning?
8. What kinds of support do we offer to both the respondent and the complainant during the initial part of this process?

C. Investigation

Honor the involved students. Ensure that students know what to expect, including what will happen with information that they share. When possible, obtain consent from the student complainant prior to beginning an investigation. Be prompt and appropriate, and keep the complainant and respondent informed as to the progress when possible, including simultaneous written notice of outcomes. Reveal only as much as necessary to get the necessary information about the case. Take time to be appropriately thorough but do not cause unnecessary delay.

Do not place the burden on either student to "prove" the case. The institution has an interest in finding out what actually happened in order to make the most informed decision possible. Campuses may have an interest in conducting an investigation even if a student does not wish to file a formal complaint or have his/her identity disclosed. Conduct a broad sweep to learn what you can; there may be critical witnesses that neither the complainant nor respondent would seek to hear from. Look at social media, text messages, and emails for additional information.

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A Title IX investigation is different from a law enforcement investigation. While a police report may be a source of information in your investigation, it focuses on whether a law has been broken and the establishment of probable cause, not whether a campus policy was violated. Depending on circumstances, police and the student conduct investigator may be able to interview a party at the same time to minimize the need to discuss the incident multiple times. On the other hand, there may be a need to time things so fact finding about possible criminal activity can conclude first. A Memorandum of Understanding (MOU) between campus and/or local law enforcement can be helpful in establishing guidelines on how and when information can and should be shared with campus investigators. Regardless, investigation files should tell a story from start to finish about the incident and the investigation, including any delays in the process.

Ensure a sustainable investigation model. Whether investigations are done through Human Resources, a single investigator, an outside company, the student conduct office, or the student affairs division, have an adequate number of well-trained people to do this work, especially during high incident times.

Questions for Consideration:

1. How are investigators trained? Would the campus tolerate external investigators?
2. Do students trust the people who conduct investigations?
3. Is there an MOU with local law enforcement officials to clarify multijurisdictional procedures before such a case arises?
4. How effectively and quickly does the campus and/or community law enforcement share information with campus investigators?
5. Is there a consistent template for investigation reports, so that no matter who conducts them, the process and report are similar?
6. Are there checklists to guide discussions with students about the process?
7. Are there enough investigators for the number of cases on campus?
8. Do the investigators have access to and good relationships with the Title IX Coordinator(s)?
9. What kind of trust does the campus have in the investigator(s)?
10. Do investigator job descriptions accurately portray the qualifications and time required?

D. Adjudication

There is no one-size-fits-all resolution method. Given the differences among institutional types, student bodies, campus cultures, and resources, it is unrealistic to apply one resolution model to the 7,000+ institutions across the United States. However, these standards of practice apply to all resolution models, including a student panel hearing, a single-investigator-and-adjudicator model, or some hybrid model. The key is to select the one that best fits campus needs.

Ensure that resolution method(s) promote a culture of reporting. Provide choices to students when possible, including the option for a complainant to not be in the same room as the respondent during adjudication. Procedures that permit the accused to be present at all stages of the hearing could result in a complainant not wanting to proceed further in order to avoid facing the accused student.¹³ If one student has the choice, both should have the choice.

Do not attempt to be a mini-courtroom. There is no need to “prove beyond a reasonable doubt” that someone violated a college policy in order to find that person responsible. There should never be direct

¹³U.S. Department of Education, Office for Civil Rights. *Letter to Notre Dame College*. September 24, 2010 (TS): 5.



questioning between respondent and complainant or victim when resolving allegations of sexual violence. While students may have an advisor present, the campus should set and uphold clear parameters for that person's involvement in the proceeding: to *support and advise* the student, not to *represent or advocate* on his/her behalf. Hearings and meetings should always be closed. Do not succumb to attempts to delay the process; offer *prompt* resolution (generally 60 days). Hearings should be structured so that they encourage the parties to tell their stories without personal attacks or reference to prior sexual histories, unless they have direct bearing on the question of responsibility in the case at hand.

Ensure that both students have the opportunity to tell their stories. Both complainant and respondent should have the chance to present information, review information ahead of time, vocalize experience, and present witnesses to the incident. Ensure that the resolution body and investigator have adequate training regarding how to engage students in the process. Offer a pool of trained advisors who can support students as they participate in the campus conduct process (depending on the campus, this can be students, staff, and/or faculty). Facilitate a process that is socially just and equitable; do not permit attorneys, parents, or anyone to create power differentials that adversely affect the process, or re-victimize anyone.

Use preponderance of evidence as the standard of proof. ASCA recommended this long before OCR stated it in the April 2011 Dear Colleague Letter. If the goal is to provide an equitable process, complainant and respondent must be allowed to participate in the process equally. These cases sometimes come down to believing one party as more credible than the other. If we start from the premise of clear and convincing or beyond a reasonable doubt, we are essentially saying to the victim, "Even if I believe you over the accused, if I don't believe you by this higher standard, I have to find in the accused student's favor." This devalues the victim's sense of personal value to the institution. Use of the "more likely than not" or 51% model is the only truly equitable standard for campus conduct cases.

Decision makers must be well trained. Given the complexity and sensitive nature of these cases, all adjudicators must be well trained. For a comprehensive suggested list of topics, refer to Appendix C.

Refer to Section IV for the questions pertaining to adjudication models.

E. Institutional Response

Be intentional and appropriate in sanction selection. As sexual misconduct ranges from repeated unwanted comments to single acts of sexual violence, there must be a wide range of sanctions available and a deep understanding of the factors relevant to sanction selection. While an act of sexual violence can never be "undone," there may be situations in which sanctions or remedies can include some restoration of harm caused. Engage the campus community in conversation about appropriate sanctions and create a sanctioning guide. If you have minimum sanctions for certain violations, ensure that there are no unintended side effects, such as hindrance to reporting or a hearing board wanting to adjust a finding of responsibility in order to issue or avoid a specific sanction. Include the rationale for sanctions so that both students understand the decisions.

Implement ways to monitor future behavior. Ensure adequate measures to uphold sanctions. Include notations on transcripts if a student is suspended or expelled to reflect accurately the student's new relationship to the institution. This can help a future institution to address behavior that may affect its students. Think beyond sanctions (if someone is not a student), reach out to other schools, talk to community police, and so forth. Work with other campus entities to ensure that climate check follow-up



occurs. Ensure that the Title IX Coordinator is informed of sanctions so he/she can assess trends. Finally, remember that sanctions are not enough with regard to remedies.

Provide both parties the opportunity to appeal, based on specific criteria. An appeal is not a rehearing of the case or an opportunity for the appellate body to substitute its judgment for that of the original hearing body. Typical criteria include an error of due process that adversely influenced the outcome, newly discovered material information that was not available at the time of the hearing and would have a significant impact on the outcome, demonstrable bias by a hearing official, or sanction(s) that are inappropriate for the violation(s). The appeals personnel should be adequately trained. There should only be one level of appeal. While appeals may not be completed within the 60-day guidance set by OCR, they should be resolved in a timely manner, relative to the case. Finally, sanctions should usually be enacted even while the appeal is being considered.

Understand the difference between “processing” and retaliation. Complainants and respondents may need to discuss what is happening to them as they engage in the conduct proceedings. They may seek support from formal (counselors, clergy, victim advocates, attorneys) and/or informal (parents, friends, advisors, coaches) resources. While “gag orders” should not be imposed, if their processing of the experience becomes problematic, educational conversations should take place to address this. A tangible adverse effect may result in some form of retaliation. If a complaint is filed and the respondent or respondent’s friends discuss the case in a way that adversely affects the complainant, the retaliation may be a continuation of a hostile environment that was created by the initial complaint (if the complaint is substantiated).¹⁴ Retaliation should be addressed immediately and effectively.

Questions for Consideration:

1. Do the hearing bodies issue sanctions or give recommendations for sanctions?
2. Are students, faculty, adjudicators, and senior administrators on the same page with regard to the kinds of sanctions that should be issued for certain cases?
3. How are members of appellate bodies trained?
4. Is retaliation addressed in the code of student conduct?

¹⁴Office for Civil Rights. *OCR Civil Rights Seminar*, Chicago, IL, April 25, 2014.



Section IV. Resolution Models

A common phrase in the field of student conduct administration is providing “some kind of hearing”, which translates to one or more members of the campus community reviewing the available case information; listening or reviewing information from the complainant, respondent, and witnesses; and determining a finding of responsible or not responsible for each alleged violation. A variety of options are available for resolution of complaints of sexual misconduct. Regardless of which resolution method is used, Title IX requires that an investigation occur for any complaint of sexual discrimination. Some campuses have specialized entities or processes that resolve only cases of this nature. Other campuses ensure that all adjudicators/hearing bodies can resolve any type of case.

Hearing Model

The hearing model is the traditional model of student conduct adjudication. The hearing is often an in-person event (although parties can participate via phone, Skype, or similar means) and varies in length depending on the complexity of the case. Some hearing bodies have the authority to issue sanctions, while others may give sanction recommendations to Student Conduct or Student Affairs staff members who have the authority to impose sanctions appropriate for the violation. The roles of the student conduct office/staff in the hearing process vary, and can include the following:

- Advisory: providing advice to board/hearing body as needed and ensuring that procedures are followed
- Logistical: coordinating scheduling, developing the hearing agenda, collecting information
- Investigative: conducting the investigation and presenting it to the hearing body so the hearing can focus on follow-up questions and offering an in-person opportunity to the complainant and respondent to share with the hearing body
- Complainant: the student may conduct staff initiate complaints on behalf of the college
- Supportive: some campuses offer advocates or advisors for students who are participating in a hearing as either a complainant or a respondent

In this model, an investigation typically occurs prior to the hearing to (a) ensure that there is enough information to substantiate a complaint going forward for consideration, (b) provide separation between investigation and adjudication of the case, and/or (c) promote an efficient hearing by having a trained professional conduct much of the fact-finding work for the hearing body.

Administrative Hearing

Administrative hearings most often involve one adjudicator who is trained in student conduct. Large and residential campuses may have student conduct offices with multiple administrative hearing officers, while small or commuter campuses may only have one adjudicator or may train employees from outside of student conduct or student affairs to serve as administrative hearing officers.

Panel Hearing

Panel hearings range in size, with at least three members. Composition varies and can include a combination of faculty, staff, and students. Both composition and size are often dependent on campus culture: A commuter college with a transient student population may have fewer students than employees on the panel. A small residential college with an activist student body may have more or all students on the panel. While OCR currently discourages campuses from having students serve on panels, we believe that there is value in ensuring that student perspectives are present in the process, so long as they are effectively trained to participate. Our society allows 18-year-olds to serve on juries

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that make decisions with much more at stake. We believe in the value of including the student voice in conduct processes, but we also understand the responsibility of adequate training and oversight of the process. While panel hearings with students may be the best resolution method for some campuses, they may not work at all for others.

Investigation Model

The investigation model removes the need for an in-person hearing, while still providing procedural protections to both complainant and respondent. In this paper we define an *investigation* as the process of collecting information pertaining to a complaint or incident, interviewing relevant parties, and synthesizing the material so it can be used to determine whether or not a policy violation occurred. This definition differs from the OCR definition of a Title IX investigation.¹⁵ The student conduct process can be used to fulfill the Title IX investigation requirement so long as it is compliant with Title IX. Here is the basic flow of the investigation model:

- Complaint is filed and assigned to an investigator.
- Complainant is interviewed and interim action/remedies may be implemented.
- Respondent is informed of the nature of the complaint and the policies in question.
- Complainant and respondent have the opportunity to meet with the investigator and provide information regarding the complaint, including suggesting witnesses.
- Witnesses may be interviewed.
- Complainant and respondent review a summary of the incident information prepared by the investigator and can provide additional response or information.
- An investigation report (including policy analysis) is completed and forwarded to an adjudicator to issue findings and sanctions (i.e., outcome).

Hybrid Models

Campuses may choose to use a hybrid model that combines aspects of these two models. For example, one student conduct staff member might conduct the investigation; a different staff member would review the information and offer an administrative resolution for the case. If either the complainant or respondent does not wish to accept the resolution, the case goes to a hearing body to analyze the information and determine outcomes and any sanctions. Another model might include a Title IX investigation completed by an equity office, with the case being referred to the campus conduct process to determine appropriate sanctions for policy violations.

Alternative Dispute Resolution

In addition to the traditional resolution methods, other options may be appropriate in certain cases. None of these should completely replace the other adjudication methods as the only resolution option available on a campus, but one or more may be effective in some cases. Keep in mind that interim and long-term remedies still should be provided to a complainant, even if these methods are used.

¹⁵Page 24 of OCR's April 2014 *Q & A Guidance* defines a Title IX investigation as "the process the school uses to resolve sexual violence complaints. This includes the fact-finding investigation and any hearing and decision-making process the school uses to determine: (1) whether or not the conduct occurred; and, (2) if the conduct occurred, what actions the school will take to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the perpetrator and providing remedies for the complainant and the broader student population."



Informal Resolution

Many campuses use an “informal resolution” process in which an accused student and a conduct officer reach agreement about the violations and imposed sanctions and resolve the case without a formal hearing. While this is a common practice for violations such as alcohol, noise, misuse of technology, academic dishonesty, and so forth, this process may not meet requirements of Title IX. In complaints of sexual harassment, there must still be an investigation, a finding as to whether sexual harassment occurred, notification to the complainant about the outcome, appropriate remedy(s), and option for appeal.¹⁶ With the need to ensure equity in the process for both parties, there is a flaw in this method of resolution if there is a complainant and yet only the accused student has to agree to the outcome. The institution should likely implement an appeal process for the complainant, or may reach informal resolution only when all three parties agree (complainant, respondent, and institution).

Mediation

The April 2011 Dear Colleague Letter made it clear that mediation may not be used to resolve complaints of sexual assault, and the reasons for this are obvious. The dynamics are not equal, and the potential for re-victimization as well as unintended effects are too great. However, following a Title IX investigation and notification of the outcomes, there may be cases of sexual harassment in which both parties wish to have mediation as part of moving forward as students on the same campus. An example is a case in which a male student is unaware of the effects of some of his comments on a female complainant and wants to understand them better. The female is interested in meeting with the male and a facilitator to share this information. With the help of a trained facilitator who provided the follow-up about their agreed future communication methods, this case can be resolved to the satisfaction of both parties. Mediation may also be helpful when an investigation determines that there was no violation of Title IX or college policy, and the college can assist the involved students in discussing how to move forward.

Restorative Justice

The restorative justice (RJ) model resonates with the concept of remedies under Title IX and suggests balance in considering the rights of both parties: those who were harmed and those who did the harming. When done effectively with willing parties who can engage in productive dialogue, an RJ process can provide deeper learning and engagement in the process. There are many ways to implement restorative justice that are worth exploring in a variety of cases. Some campuses have utilized RJ in place of a traditional hearing in which the accused acknowledges having caused harm to the other party and the violation is at a lower level. Others have successfully implemented RJ in addition to the traditional hearing to provide some closure to the parties. This option is especially worthy of consideration in cases in which the complainant says, “I just want him to know that what he did to me was wrong.” If your campus is interested in RJ as an option, we recommend that the facilitator be well trained and that much care is used in utilizing this option.

¹⁶U.S. Department of Education, Office for Civil Rights. *Letter to Notre Dame College*, September 24, 2010 (TS): 5.



Comparison of Resolution Models

	Investigation	Admin Hearing	Panel Hearing	Hybrid Model
Staff Resources	<ul style="list-style-type: none"> Requires more time by fewer staff members Can be overwhelming during high case time, especially if not the sole focus of the position Creates risk if staff turnover is common Can be outsourced 	<ul style="list-style-type: none"> With a pool of administrators or with one or more who focus on this, offers a flexible schedule 	<ul style="list-style-type: none"> Requires time from panel members for cases and training to promote consistency Still requires advising by conduct staff and/or training 	<ul style="list-style-type: none"> Allows for investigations to be done outside of student conduct Can be outsourced
Privacy of Information	<ul style="list-style-type: none"> Fewest people are exposed to the information 	<ul style="list-style-type: none"> Limited number of people can access information 	<ul style="list-style-type: none"> Information usually exposed to greatest number of people Often includes sharing information with faculty and students 	<ul style="list-style-type: none"> Depends on size of hearing body
Logistics	<ul style="list-style-type: none"> Can usually be the most expedient, depending on investigator's other duties 	<ul style="list-style-type: none"> Medium level of coordination required 	<ul style="list-style-type: none"> Requires most extensive coordination of schedules 	<ul style="list-style-type: none"> Allows most options for customization
Training Required	<ul style="list-style-type: none"> Requires ongoing training for investigator(s) and adjudicator(s) Must address turnover 	<ul style="list-style-type: none"> Requires ongoing training for the hearing officer 	<ul style="list-style-type: none"> Extensive training required to ensure effectiveness and minimize risk 	<ul style="list-style-type: none"> Depends on the number of people involved. May require different types of training for different entities.
Consistency	<ul style="list-style-type: none"> Offers potential for great consistency, depending on number of investigators and adjudicators 	<ul style="list-style-type: none"> Offers potential for great consistency, depending on number of adjudicators and communication among them 	<ul style="list-style-type: none"> Least likely to be consistent, depending on level of training and dedication of board members 	<ul style="list-style-type: none"> Depends on construction of model
Campus Support	<ul style="list-style-type: none"> Must have credible investigator(s) to maintain support of process Students may feel it is too "secretive" or it may be most trusted because of this Requires openness by legal counsel 	<ul style="list-style-type: none"> Requires trust in the administration for students to report May be most trusted by student body 	<ul style="list-style-type: none"> Ensures that campus voice is heard in decision and sanctioning May be seen by students as most supportive, depending on culture 	<ul style="list-style-type: none"> Varies, depending on process

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Questions to Ask Your Campus

Campus Culture

1. What level of trust do students have in the student conduct office/staff?
2. Is the student body transient or consistent? Are there students who are engaged and willing to serve on boards consistently?
3. What involvement do faculty, staff, and students want to have in the conduct process?
4. What politics affect this decision?
5. Can the same process be used for student and employee misconduct? How well do Human Resources and Student Conduct employees communicate with each other?

Support From Campus Leadership

1. Does the campus leadership trust and support the conduct staff?
2. What models does the institution's attorney support and why?
3. Do campus stakeholders understand the student conduct process?
4. What role(s) do senior staff want to have in the process?
5. Is funding for adequate training provided?

Staffing

1. Can staff members focus on investigations, or will that interfere with other job duties?
2. Are there faculty members who are willing to be trained and serve on boards consistently?
3. Is there adequate staffing to ensure appropriate separation between the initial adjudicating body and the appellate body, so students have a fair chance for an appeal?
4. Is enough staff involved to manage any perceptions of conflict of interest or bias?
5. Are faculty, staff, and students compensated accurately for time spent on these cases (release time, credit toward tenure, academic credit for training, etc.)?

Training

1. What level of training can be provided on campus?
2. What training should be obtained through national or local resources to fill the gaps?
3. Are there resources to ensure that all members of hearing boards are adequately trained on an ongoing basis?
4. How is turnover in investigators, adjudicators, or appellate boards addressed?
5. Are panels/hearing officers active enough to practice what they learned in training or can ways be created for them to practice the training through in-service or continuing education?

Resources and Funding

1. Are participants in the administration of the process adequately compensated?
2. What money is set aside for annual training, Association membership, and conference attendance to ensure that the campus is up to date on best practices?
3. Is there release time offered to investigators/adjudicators as needed?
4. What kind of support is available to staff members who investigate or hear these cases?
5. What are the relationships with local law enforcement agencies?



Section V. Conclusion and Next Steps

Given the recent attention to how colleges address incidents of sexual violence on campus, student conduct professionals are in the spotlight as never before. This presents an opportunity for ASCA to advance the profession to promote safer campuses for students. Student conduct professionals who are working at an institution with an antiquated process or an overly legalistic policy must work to change this. All conduct professionals have a responsibility to students and the profession to correct those who are not doing this work well. We are the ones who talk with students, who know how to write policies that fit our institutional culture and uphold professional standards, who facilitate procedures that are equitable and respectful for all of our students involved; we are the experts on this. As practitioners and as a profession, we must do a better job of describing the nature of student conduct, articulating how sound practices correlate to the educational mission of our campuses, and demonstrating effectiveness in transforming student behavior. ASCA has an interest in ensuring that each and every colleague does this well because the profession has an obligation to students and to the field of higher education. ASCA is committed to setting the “gold standard” for addressing sexual misconduct effectively through student conduct practices. Immediate steps toward this goal include the following:

- Distributing this white paper freely to promote transparency and understanding of the role of student conduct personnel in addressing sexual violence and harassment
- Developing for ASCA members a collection of proven practices, templates, sample policies, training materials, and other items through Sexual Misconduct/Title IX Community of Practice
- Providing timely information to ensure that members have up-to-date information about issues affecting their work
- Collecting data on current practices and trends to understand the national climate surrounding sexual misconduct cases and how to influence it through the Association
- Releasing follow-up white papers on leading practices, including how student conduct staff and campus security/law enforcement work together to address sexual misconduct on campuses, as well as recommended practices for transcript notations and evaluation of notations
- Continuing to provide effective initial and ongoing training through the ASCA Gehring Academy, annual conference, regional/state meetings, and webinars
- Strengthening relationships with external entities such as the White House, OCR, Congress, and other higher education associations, including a presentation on student conduct resolution procedures to the OCR Sexual Harassment Network in August 2014
- Continuing to challenge entities that seek to undermine the educational mission (including state governments, attorneys, and sometimes institutional stakeholders) by advocating for sound practices, equitable procedures, and productive legislation

This paper is intended to be a catalyst for action. We agree with President Obama’s introductory quotation in the *Not Alone* report: Sexual violence is a threat to campus communities and “we have the power to do something about it.” We invite you to join us in being part of the solution to addressing the societal problem of sexual violence as it affects our campuses.

***ASCA would like to acknowledge the following additional abbreviated resources: ATIXA One Policy, One Process (2013); NCHERM Group Wiki Model Code Project (2013); Reframing Campus Conflict by Schrage and Giacomini (2009); Student Conduct Practice by Lancaster & Waryold (2008); The Little Book of Restorative Justice by Karp (2013)*

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Appendix A: Resources

Influential Guidance:

- Guidance: *Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (1997)
- Pamphlet: *Title IX and Sex Discrimination* (Revised 1998)
- Guidance: *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (2001)
- Pamphlet: *Sexual Harassment: It's Not Academic* (Revised September 2008)
- *Dear Colleague Letter on Harassment and Bullying* (October 26, 2010)
- *Dear Colleague Letter on Sexual Violence* (April 4 2011)
- *Dear Colleague Letter on Retaliation* (April 24, 2013)
- *Questions and Answers About Title IX and Sexual Violence* (April 29, 2014)

Relevant and Notable Court Cases/Judicial Guidance:

- *Dixon v Alabama*, 294 F. 2d 150 (5th Cir. 1961)
- *Goss v Lopez*, 419 U.S. 565 (1975)
- *Gebser v Lago Vista Independent School District*, 524 U.S. 274 (1998)
- *Davis v Monroe County Board of Education*, 526 U.S. 629 (1999)
- *General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax-Supported Institutions of Higher Education*, 45 F.R.D. 133 C.F.R. (1968)

Additional Governmental Influences:

The following documents provide practical examples of application of the OCR guidance, which campuses should consider as advisory:

- *Eastern Michigan Resolution Agreement* (November 2010)
- *Notre Dame College Resolution Agreement* (June 2011)
- *University of Montana Resolution Agreement* (May 2013)
- *SUNY Resolution Agreement* (September 2013)
- *Not Alone: The First Report of the White House Task Force to Protect Students from Sexual Assault* (April 2014)

ASCA Resources:

Laura Bennett, D. Matthew Gregory, and Gary Pavela, *ASCA Law and Policy Report No. 487*. The Association for Student Conduct Administration (1 May 2014). Available online at <http://theasca.org>.

Daisy M. Waryold & James M. Lancaster, *The State of Student Conduct Current Forces and Future Challenges: Revisited*. Association for Student Conduct Administration, 2013.

Sophie W. Penney, Lawrence Tucker, and John Wesley Lowery, *National Baseline Study on Campus Sexual Assault: Adjudication of Sexual Assault Cases* (A Study by the Inter-Association Task Force of the Association for Student Judicial Affairs). Association for Student Judicial Affairs: 2008.

Edward N. Stoner II and John Wesley Lowery, "Navigating Past the 'Spirit of Insubordination': A Twenty-First Century Model Student Code of Conduct With a Model Hearing Script," *Journal of College and University Law*, 31(1) (2004).



Appendix B: Key Elements for Sexual Misconduct Policies and Procedures

The following key elements provide a guide for developing a gold standard sexual misconduct policy and procedure. They have been compiled from the April 2014 Q & A Guidance, prior OCR guidance, the resources released at <http://notalone.gov>, and OCR resolution agreements. (Appendix A contains more information on these sources.) As the Clery Act overlaps Title IX with some compliance requirements for institutional responses to reported incidents of sexual violence, some Clery Act requirements (including some anticipated as a result of the current negotiated rulemaking process) pertaining to behavioral expectations (i.e., policy) and resolution procedures have been included in this guide to streamline institutional communications and promote compliance with Clery. Note that this guide is focused on institutional policy and resolution procedures; it does not include requirements such as education, risk reduction, or crime statistic reporting, which must be addressed in the campus's annual security report.

Institutions should review and carefully consider implementation of the elements in this guide, as many of them have implications for practice and may vary based on the institution's needs. In addition, if the institution has a separate or different process for addressing *employee* behaviors, the same information about process, outcomes, should be communicated. Institutions are encouraged to make it as easy as possible to communicate and understand the process, regardless of who is victimized and who is the alleged harming party—student, employee, community member, or someone else.

NOTE: At the time of this publication, the public comment period pertaining to changes to the Clery Act as a result of the Violence Against Women Reauthorization Act of 2013 (VAWA) is occurring, and there are more than 60 active OCR investigations. As a result, this guide is subject to change and will be submitted to the ASCA Sexual Misconduct/Title IX Community of Practice to update and maintain for members of ASCA, as further guidance and legislation is finalized.

Introduction

- Statement of the prohibition against sex discrimination and all forms of sexual misconduct as defined by the institution, which includes behaviors that may also be criminal in nature, such as dating violence, domestic violence, sexual assault, and stalking
- Statement of the institution's commitment to address sexual misconduct
- Assurance that the institution will take steps to prevent recurrence and remedy effects
- Reference to the institution's core values, if relevant
- Statement that this guide explains the rights and options of (student/employee) victims of sexual misconduct, regardless of whether the act occurred on or off campus

Scope of Policy/Jurisdiction

- Identify the persons, conduct, locations, programs, activities, and relationships covered by the policy, including:
 - Application to complaints filed by students or on their behalf alleging sexual violence carried out by employees, other students, or third parties
 - Off-campus conduct affecting the campus or the access to education of another student
 - Application to all students and employees, regardless of gender identity or sexual orientation
 - Application to third parties also
 - Application to online behavior and social media that may affect the educational experience
- State that the institution may initiate a complaint

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- Explain that there is no time frame for submitting a complaint, with encouragement to report quickly to maximize the institution's opportunity to respond and investigate
- Explain that this policy is not a substitute for law, that the procedure may apply to situations that are also subject to criminal action, and that the institution supports individuals in reporting criminal activity to appropriate law enforcement entities
- Explain the institution's amnesty policy or other such statement to encourage reporting of sexual misconduct even if other violations (such as alcohol/drug use) may have occurred

Options for Initial Assistance

- Address immediate concerns:
 - Resources on and off campus, including contact information for trained advocates who can provide crisis response
 - Emergency numbers for on- and off-campus law enforcement/campus safety, and how the institution can assist in notifying law enforcement if desired
 - Health care options on and off campus
 - Institution-specific sexual assault response resources
 - Surrounding community sexual assault response resources
 - How to seek care for injuries, STI testing, etc.
 - Importance of and explanation of how to preserve evidence in case the behavior is also a potential criminal act
 - Encouragement of prompt reporting of all crimes to the appropriate law enforcement agency, paired with a commitment from the institution that appropriate support will be offered in any case
 - Where to get a rape kit/SANE examination
 - Institutional resources pertaining to visa/immigrant status
 - The victim's rights and institutional support to assist in attempts to obtain orders of protection
- Address Counseling, Advocacy, and Support
 - Counseling and support options regardless of participation in conduct or criminal processes
 - Options and how to report confidentially on and off campus to counselors, medical personnel, or other such resources
 - Other support options during conduct or criminal process (designate whether they are confidential or not)
 - Explain that individuals may have a support person of their choosing present during any "proceedings" and what role(s) that person may have
 - A reference or link to the section on Reporting Options to learn more about confidential resources and who at the institution has a responsibility to report or act on the information
- Explain Interim Measures
 - Describe the range of measures that can be offered, including:
 - Potential immediate steps that can be taken by the institution to ensure safety/well-being of the victim (changing residence halls or class schedules, work schedules/situations, transportation assistance, withdrawal from a class without penalty, tutoring support, etc). Inform that the institution will make these accommodations if they are requested and reasonably available, regardless of whether the victim reports a crime to law enforcement.

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- Additional possible steps that can be taken while an investigation is pending, such as campus no-contact orders, changing the accused student's schedule, etc.)
- State that interim measures will be imposed in a way that minimizes the burden on the victim to the extent possible while balancing the rights of the accused.
- Explain differences between a campus no-contact order and a civil order of protection. Explain how to obtain a civil order of protection, including who from the campus can assist in obtaining one.
- State that information will be maintained as private as long as it does not hinder the institution's ability to provide interim measures.
- State that retaliation is not tolerated by Title IX or the institution, and explain how the campus will protect against retaliation.
- Describe how the college values the opportunity to address incidents of sexual misconduct and assure that any violation of alcohol, drug, or other such policies may be addressed outside of this process but should not be a reason not to report.

Definitions

- Provide adequate definitions of sexual misconduct include the following:
 - Discrimination and sexual harassment, including hostile environment caused by sexual harassment
 - Sexual assault, including rape, sodomy, sexual assault with an object, forced fondling, incest, and statutory rape
 - Sexual violence, including dating violence, domestic violence, and stalking
 - Other forms of nonconsensual sexual contact
 - Sexual exploitation
 - Retaliation
 - Any other gender-based misconduct such as intimidation, bullying, or other nonconsensual sexual conduct
- Ensure that definitions are the same, no matter who engages in the behavior—employees, students, or nonstudents.
- Explain that violations of the policy may occur between individuals or groups of any sexual orientation or actual or perceived gender identity.
- Identify the criteria for determining whether a relationship is intimate, domestic, dating, etc.
- Provide examples of behaviors that constitute violations of each type of sexual misconduct.
- Define *consent* and *incapacitation*, in compliance with relevant state laws; explain the difference between *drunk*, *intoxicated*, and *incapacitated*
- Include definitions of *proceeding* (all activities related to the institutional resolution of a complaint, including investigations, meetings, and hearings) and *result* (initial, interim, or final decision made by an entity authorized to resolve disciplinary matters, including both findings/sanctions and rationales) for Clery purposes.

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Reporting Options and Confidentiality of Information

- State that an individual may reach a variety of decisions at any point as to how or whether to proceed, and that a complaint may be filed under Title IX, as well as in the criminal process.
- State that a victim has the option to report (or not) to law enforcement and that the institution will offer assistance in notifying law enforcement agencies.
- Explain what the college considers to be “notice.”
- Provide a reminder of confidential reporting options (referred to earlier in the policy).
- Distinguish formal reporting options
 - Criminal (may include on- and off-campus police)
 - Campus conduct process for student behavior, employee behavior, and unknown or third party behavior
 - Reporting to “responsible employees”
 - List these (consider what students might see as responsible or confidential employees).
 - Explain that responsible employees must report to the Title IX coordinator immediately if they receive a formal report or if they observe potential misconduct first hand or learn about it in another way.
 - Reporting to Title IX Coordinator
 - Include name and contact information.
- For all, describe how to file a complaint as well as an explanation of who will potentially be able to have access to what level of information once a report is filed, and what information is documented and retained
- Explain that the Title IX Coordinator(s)/supervisors will be kept informed and whether campus legal counsel may be consulted.
- Explain alternatives to formal reporting.
- Explain what happens if someone reports to a responsible employee but requests that his/her name be kept confidential or that no action be taken:
 - Identify who is responsible for evaluating requests for confidentiality.
 - Explain that the college’s ability to investigate may be limited, which can affect the kinds of things that may be done in those cases to remedy, end, or prevent recurrence without formal conduct process being initiated; provide examples of these.
- Describe any public recordkeeping obligations, including campus crime logs, reporting obligations under Clery and the annual reporting responsibilities of Campus Security Authorities (CSA), and the college’s obligation to issue timely warnings.
 - Provide examples of the kinds of information that could trigger a timely warning and give assurance that the complainant’s name or identifying information will not be released by the institution.
 - If CSAs are different from responsible parties defined earlier in the policy, explain that.
- Explain what happens with third-party and anonymous reporting, including that the college’s ability to respond may be limited.
- Reiterate that retaliation against anyone who files a complaint, a third-party report, or otherwise participates in a conduct process or investigation is prohibited and that the college will take strong responsive action if retaliation occurs.
- Explain that the privacy of student information is protected by FERPA, and that nothing in this policy or procedure constitutes a violation of FERPA.

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Investigation Procedures

- Describe the difference between an *investigation* that the college initiates when it has notice and the *Investigation* that is initiated when a formal complaint is received. Explain the difference between a law enforcement investigation and a campus investigation. Include relevant information from an MOU with law enforcement, as well as what may or may not be shared between the investigations.
- Explain that a concurrent criminal investigation may delay the campus investigation temporarily only until the fact-finding portion of the former is completed. Suggest that a reporting or responding party may wish to make an initial report to both police and campus conduct officials, with the understanding that the two procedures have different standards and outcomes.
- Identify who conducts investigations and what the investigations entail, including information about the annual training that investigators receive.
- Ensure a reasonably prompt time frame for completion of the investigation, and explain how it will be communicated if the timeframe must be extended; give examples of why this happens.
- Describe provisions for adequate, reliable, and impartial investigation of complaints, including the opportunity for both complainant and alleged perpetrator to present witnesses and evidence.
- State that interim measures are available during an investigation.
- State that the ability to investigate effectively may be limited if the complainant requests confidentiality.
- Explain the option for a support person to be present and what role(s) that person may play (i.e., silent support that does not interrupt the process), as well as prohibited conduct (such as advocating for, giving information on behalf of, or cross examining a participant).

Resolution/Adjudication Procedures

- Describe all types of resolution procedures that may be used, including the steps, the anticipated timelines, the decision-making process, and how the institution determines which procedure will be used to resolve a complaint.
- Explain the process:
 - State that the preponderance of evidence standard will be used.
 - State that mediation will not be used in cases of sexual assault/violence.
 - Explain the nature of the process (i.e., hearing model):
 - who will have access to information and what decisions they will make
 - how they are trained, including annual training.
 - Explain how to address concerns about conflict of interest or bias, including a statement that in the rare case in which conflict of interest occurs, how that will be disclosed, and a reminder of available appeal options.
 - Describe the format of adjudication, including the option to participate without being in the same room with other parties.
- Describe the rights of the complainant and respondent:
 - Notice of hearing/adjudication process
 - Opportunity to present witnesses and information
 - What kinds of things will NOT be permitted, including direct cross examination:
 - Questions about the complainant's prior sexual conduct with anyone other than the perpetrator, and even in those cases, ONLY consider past sexual history if

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there is a prior sexual relationship between the parties that is relevant to the issue of consent

- Clarify that evidence of a prior consensual relationship by itself does not imply consent or preclude a finding of sexual misconduct.
- Opportunity to have a support person (in addition to any person providing accommodations under ADA) and that individual's role(s) in process: specifically, to support the individual student, not to represent him/her
- Depending on the institution's practice, inform that, if an attorney is present during an institutional proceeding, the institution also reserves the right to have an attorney present.

Outcomes

- Explain possible findings (responsible/not responsible).
- Explain all possible final sanctions.
- Explain possible remedies, including the range of protective measures offered for the complainant and for the campus community.
- Describe how the parties will be informed of the outcomes:
 - In writing, simultaneously
 - A rationale for the findings and any sanctions will be shared
 - The explanation of how to appeal
 - Assurance that the institution will not impose a nondisclosure agreement on either party
 - Resources/support options that are available to assist with processing the outcomes
- Describe the grounds for appeal, including deadlines and how to submit the appeal:
 - Explain the timeframe for processing the appeal.
 - Explain the process for an appeal, including who can see the information and make decisions.
 - Explain how the other party will be informed if an appeal is submitted and what information he/she can submit at that time.
 - Explain how parties will be informed of the outcome, including any changes and when the outcomes are final.
- Reiterate the time frame by which outcomes can be expected (generally 60 days from filing of report, exclusive of appeals).

Title IX Coordinator Contact

- Reiterate the Title IX Coordinator's role and contact information.
- Include OCR contact information.



Appendix C: Training Competencies for Adjudicators and Hearing Board Members

No matter what type of resolution is used, ensure that adequate, ongoing, and effective training is provided for participants. The following topics should be addressed to ensure that adjudicators and hearing board members understand the core competencies of the field.

- History of student conduct on campuses
- Students' rights and procedural protections
- Terminology used in student conduct
- The campus's Student Code of Conduct (as well as any policies on sexual misconduct if they are separate) and the role it plays on campus
- Overview of the campus conduct process, including appeals
- How campus processes differ from criminal or civil court
- Goals of the adjudication process
- Responsibilities and expectations of the hearing body
- Roles of the participants (complainant, respondent, witnesses, board, advisors, etc.)
- How to facilitate a hearing
- How to ask questions effectively and appropriately
- How to evaluate various types of evidence
- How to evaluate credibility
- How to analyze policy
- How to deliberate toward resolution
- The standard of proof (preponderance of evidence)
- Sanctions and how to determine appropriate ones
- FERPA and privacy of information
- Cultural competencies, including understanding of differences that may be exhibited during a hearing or investigation
- Common problems that may arise and how to address them

Additional topics should be covered with any entity that is involved with the resolution of complaints of sexual misconduct. The following list draws from the April 2014 OCR Q & A Guidance and recommendations from the Office of Violence Against Women, with additional suggestions that promote a fundamentally fair process for both complainant and respondent:

- Training or experience in handling sexual violence complaints
- Training or experience in the operation of the school's grievance procedures
- Information on working with and interviewing persons subjected to sexual violence
- Information on particular types of conduct that would constitute sexual violence, including same-sex sexual violence
- Information on consent and the possible role of drugs or alcohol in the ability to consent
- The importance of accountability for persons found to have committed sexual violence
- The need for remedial actions for the perpetrator, complainant, and school community
- The effects of trauma, including neurobiological change
- Cultural awareness training regarding how sexual violence may affect students differently, depending on their cultural backgrounds
- How both trauma and defense mechanisms can play out in a hearing
- Dispelling common misperceptions about sexual assault in society (e.g., "rape myths")

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About the Authors

Laura Bennett, President-Elect of ASCA

Laura currently serves as the Student Conduct Officer at William Rainey Harper College, where she administers the student conduct process and chairs the campus threat assessment/behavioral intervention team. She conducts Title IX investigations for student-to-student misconduct is in the process of drafting revisions to the campus's *Guide to Sexual and Gender-Based Misconduct*. Prior to her role in the community college setting, Laura served as the Assistant Director of the Center for Student Conduct and Community Standards at the University of California, Berkeley. There she experienced a hybrid adjudication model where she resolved cases informally and presented cases to boards on behalf of the University. Laura's foundational student conduct experience is from Colorado College, where she oversaw the student conduct procedures in the residential halls, implemented an investigation-based resolution model and served as the campus's lead investigator. Laura has advised a campus LGBT student organization, and a student organization devoted to sexual assault prevention with a 24-hour hotline offering response to victims/survivors. She has provided training to participants at all stages of the resolution process, including panel members, adjudicators, investigators, student advisors, and appellate boards at public, private, and community college campuses. Laura received a M.Ed. in College Student Services Administration with a minor in Gender Studies from Oregon State University and a B.G.S. in English from the University of Kansas. Her ASCA leadership experience includes serving as the 2012 Annual Conference Chair, the first Director of Community College, and faculty at the Gehring Academy.

D. Matt Gregory, President of ASCA

Matt serves as the Associate Dean of Students and Director of Student Advocacy & Accountability at Louisiana State University (LSU) in Baton Rouge. Matt serves on the CARE Team, aids in threat assessment, and recently was involved in drafting the system policy addressing Title IX on system campuses. Prior to his role at LSU, Matt served as a lead conduct officer within Housing & Residence Life at the University of Southern Indiana (USI). During Matt's tenure at USI, he completed a doctoral degree in 2009; his dissertation focused on male advocacy against sexual violence on college campuses. Matt is a former law enforcement professional at both the campus and federal levels and is a certified Rape Aggression Defense (RAD) instructor. Prior to entering law enforcement, Matt had responsibility for addressing student behavior at Southern Illinois University, The College of William & Mary, and Western Kentucky University. Matt received a PhD in Education Administration from Southern Illinois University, a Master of Education degree with a concentration in counseling and student affairs from Western Kentucky University, and a Bachelors of Science degree in Biological Sciences from Southern Illinois University. Matt joined ASJA in 1996 and has since served ASCA in a variety of leadership capacities, including one term as the Association Secretary prior to serving as ASCA President.

Chris Loschiavo, Immediate Past President of ASCA

Chris Loschiavo is Associate Dean of Students and Director of Student Conduct and Conflict Resolution at the University of Florida (UF). He is responsible for oversight of the campus response to student behavioral and honor code-related issues, including cheating and plagiarism, alcohol and other drug issues, and physical violence, dating violence, and sexual misconduct. He is Deputy Title IX Coordinator for students, serves on the institution's Behavioral Consultation Team, and teaches a conduct committee training class each spring semester for prospective conduct board members. Prior to coming to UF, Chris served as Director of Student Conduct and Community Standards at the University of Oregon (1999–2007). At both institutions, Chris has overseen major revisions to the Student Conduct

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Code. Chris currently serves as Immediate Past President of ASCA and has served as a faculty member at the ASCA Gehring Academy for the past 4 years. He is known throughout the profession for his work with conflict resolution, particularly for his work with Restorative Justice. In 2012, Chris was awarded the ASCA Donald D. Gehring Award for lifetime contributions to the field. Under Chris's leadership, the UF Conflict Resolution Initiative was recognized with the ASCA Innovation Award, and Student Conduct and Conflict Resolution at UF was awarded by ASCA the Institutional Award of Excellence as the top conduct program in the country. Chris received both B.A. and J.D. degrees from the University of Florida.

Jennifer Waller, Executive Director of ASCA

Jennifer joined the organization in January 2012. She has worked in Residence Life at five institutions of higher education, including Texas A&M University, the University of Hawaii at Manoa, Texas Tech University, the University of Wisconsin-La Crosse, and Eastern Illinois University. She earned a doctorate in Higher Education Administration at Texas A&M University and holds Master's degrees from the University of Hawaii at Manoa and Eastern Illinois University and a Bachelor of Science degree from Eastern Illinois University. In 2014, Jennifer was awarded Dissertation of the Year recognition by ASCA for her research on student conduct administrators.

The Association for Student Conduct Administration (ASCA) supports and serves professionals who transform student behavior and address its impacts within higher education communities. For more information or to become a member, visit <http://theasca.org>.

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Appendix E: Transcript Notation Update Memo from Dean of Students to the University Registrar



WILLIAM & MARY

CHARTERED 1693

DEAN OF STUDENTS

MEMORANDUM

To: Sallie Marchello, University Registrar

From: Marjorie Thomas, Dean of Students

Date: June 30, 2015

RE: Transcription Notation Updates

Per our discussion earlier this month, I am enclosing the transcript notations we agreed to use to officially denote any academic status changes, disciplinary actions taken or pending, or enrollment actions as a result of pending cases. These changes also reflect the recently-passed legislation regarding required notations for cases involving sexual violence. Please contact me if you have any questions.

- **Resigned under suspicion of an honor code violation; ineligible to return.**
- **Resigned under suspicion of a serious violation of the Code of Conduct; ineligible to return.**
- *Resigned under suspicion of a violation of the Sexual Misconduct policy; ineligible to return.*
- **Permanently dismissed due to disciplinary reasons effective DATE (OF HEARING); ineligible to return.**
- *Permanently dismissed due to a violation of the Sexual Misconduct Policy effective DATE (OF HEARING); ineligible to return.*
- **Indefinite Disciplinary Suspension effective (DATE OF HEARING)**
- *Indefinite Disciplinary Suspension for a violation of the Sexual Misconduct Policy effective (DATE OF HEARING)*
- **Disciplinary Suspension effective (DATE OF HEARING)**
- *Disciplinary Suspension for a violation of the Sexual Misconduct Policy effective (DATE OF HEARING)*

- **Withdrew with disciplinary case pending effective DATE.**
- **Withdrew with honor code case pending effective DATE.**
- *Withdrew while under investigation for a violation of the Sexual Misconduct Policy.*
- **Academic Suspension effective XXXXX.**
- **Reinstated to good standing effective XXXXX.**
- **Student Conduct Case Pending.**
- **Honor Code Case Pending.**

C: Ginger Ambler, Vice President for Student Affairs
Kiersten Boyce, Title IX Coordinator