

Report of the Title IX Task Force

September 19, 2014

Like all residential college communities, Hamilton faces the challenge of responding efficiently and fairly to charges of sexual misconduct and sexual assault incidents on its campus. The College must do so in the context of an ongoing national conversation about sexual violence that emphasizes the need for education and prevention efforts, prompt and thorough response mechanisms, and clear and transparent investigative and adjudicative procedures. In light of recent and revised federal guidance, President Stewart convened the Title IX Task Force to assess and enhance the College's ability to address community concerns.

The Task Force was charged specifically with recommending changes to Hamilton's Harassment and Sexual Misconduct policies following an examination of the guidelines set forth by the Office of Civil Rights, the White House Task Force to Protect Students from Sexual Assault, and the Campus SaVE Act. In undertaking our responsibilities, we paid particular attention to the following documents, in addition to the College's current policy and procedures:

- "Dear Colleague Letter," U.S. Department of Education Office of Civil Rights, April 2011
- "Rape and Sexual Assault: A Renewed Call to Action," The White House Council on Women and Girls, January 2014
- "Not Alone: The First Report of the White House Task Force to Protect Students From Sexual Assault," April 2014
- "The Campus SaVE Act: A Compliance Guide," United Educators
- "Questions and Answers on Title IX and Sexual Violence," U.S. Department of Education Office of Civil Rights
- Checklist for Campus Sexual Misconduct Policies, U.S. Department of Education

To gather information on peer institution best practices, we conducted a survey of chief student affairs officers at NESAC, New York Six, and other comparable colleges. Intrigued by recent revisions to Middlebury's procedures, especially its success in eliminating hearings from its adjudicative process, we reviewed that college's written policy and interviewed the associate dean for judicial affairs and student life.

Based on our research and conversations, the Task Force submits a set of recommendations focused on ensuring compliance with federal guidelines, while clarifying Hamilton's policy and strengthening the College's ability to respond to complaints. We were guided by a shared understanding that the College is limited in its ability to remedy a situation after it has occurred, and that education on harassment and sexual misconduct is critical in preventing incidents from occurring in the first place. We wish to emphasize that while Hamilton's procedures cannot "make victims whole" following alleged acts of harassment or sexual misconduct, robust and clearly articulated policy and practices assist our community by ensuring integrity and fairness in our response.

The results of these efforts are the draft policies attached to this report. Several key points highlight the substantive aspects of the Task Force's revisions:

1. Split the current Harassment and Sexual Misconduct Policy into two policies, one focused on sexual misconduct and the other on harassment. We believe that this change will help to clarify what options are allowed for each type of act and who at the College is responsible for oversight of each policy.
2. Create a more robust investigative process:
 - a. For all formal complaints, employ an external investigator (generally an attorney) who will partner with a trained Harassment and Sexual Misconduct Board (HSMB) member to form the Investigation Team. This change will allow us to benefit from professional expertise in conducting investigations while retaining the involvement of an individual who is familiar with our campus culture.
 - b. Permit students to have attorneys as their advisors, in accordance with federal guidance.
3. Reconstitute the HSMB Hearing Committee as a Harassment and Sexual Misconduct Review Panel (HSMRP), and eliminate the formal hearing process. Eliminating the hearing means both parties (especially the complainant) will not have to tell their story both during the investigation and the hearing, and adheres to federal guidance that prohibits students from cross-examining each other. Under this model, the HSMRP would review the Investigation Team's report and recommend a decision and sanction, if applicable, to the appropriate senior staff member. If they wish, the complainant and respondent will be allowed to speak to the HSMRP separately.
4. Revise the composition of the HSMB, so that only full-time employees and faculty members who are associate rank or above would serve. Students and, in most cases, junior faculty would no longer serve on the HSMB. Federal guidelines discourage institutions from having students serve on the HSMB (see Footnote 30 in the U.S. Department of Education's Office of Civil Rights FAQs) because of concerns about confidentiality and the difficulty in training students given their relatively short tenure. We also note that the national conversation about sexual misconduct places campus hearing boards under a microscope; we do not wish to expose our students to this level of scrutiny.
5. Create definitions and resources within the policy, including articulating who is designated as a "Responsible Employee." Being more explicit about Responsible Employees (which includes RAs) and articulating who is able to assure confidentiality will help students choose which course of action to take following an incident of sexual misconduct.
6. Incorporate dating and domestic violence and stalking into the Sexual Misconduct Policy in compliance with the Campus SaVE Act.

Given the task force's charge and attention paid to Title IX, we focused in particular on the sexual misconduct policy, and recommend that it be adopted as soon as possible. The harassment policy, which is just as likely to impact employees as it is students, requires further attention. We recommend that it be vetted by the College's senior staff and director of human resources, with a final review by the College's attorneys prior to adoption. There may be a need to create separate sections for students and employees, or delineate the specific procedures for each group within the policy.

We wish to express our willingness to be involved in future policy discussions, and our gratitude for the opportunity to have served the College in this process.

Respectfully submitted,

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