



Report of the Committee on Historical Complaints of Sexual Harassment¹ September 24, 2018

The Hampshire Committee on Historical Complaints of Sexual Harassment was convened by President Lash after he received a complaint from a graduate of Hampshire College who said that she had been harassed by a faculty member while she was a student. She had reported the harassment to representatives of the college on several occasions after she and the faculty member had left Hampshire, but as far as she was aware there had been no follow-up on her complaint. In the course of investigating the graduate's complaint it became clear that although Hampshire has clear policies and procedures for dealing with sexual harassment or assault affecting current members of the campus community, it does not have similarly clear policies for reports of past events. Particularly in light of the heightened awareness of both individual and institutional failures to recognize and respond to incidents of sexual harassment brought about by the #MeToo movement, it seemed important for Hampshire College to review its own conduct and develop appropriate policies.

President Lash charged the Committee to:

...develop recommended principles and guidelines for the college's response to complaints or concerns about sexual harassment that occurred in the College's past involving individuals no longer at the college. The committee will develop recommendations about how the College should respond to information it receives about past sexual harassment, and will recommend principles to guide decisions on whether to retract honors, names on buildings, or named funds relating to individuals affected by such complaints. The committee will review existing policies, gain insight from the offices that work in these areas, and review how other institutions have approached these questions. The committee will meet regularly in February, March, and April and will have developed a set of guidelines by May 1, 2018.

The issues the Committee has sought to address are not simple. The conduct complained of may have taken place decades ago. It may be impossible to gather all of the facts because memories have faded, or because some of those involved are no longer living. And while it appears that Hampshire was among the first colleges to adopt and enforce policies on sexual harassment, those policies inevitably reflected their times.

We have reviewed policies developed at other institutions and existing policies and practices at Hampshire. We have been particularly mindful of the importance of listening to, acknowledging, and taking seriously victims' complaints, and, at the same time, treating those accused of misconduct fairly. We have recommended policies and procedures we believe will accomplish both those ends. Since these cases involve situations in which one or both of the individuals involved are no longer at the College,

¹ The members of the Committee: Professor George Fourlas, Professor Jennifer Hamilton, Jonathan Lash, Theresa Meckel, Julie Schechter, Anthony Thomas, and Dianna Williams.

there may be few actions that the College can take other than to acknowledge, and where appropriate, apologize for the events; nonetheless, we are convinced the College will benefit from recognizing and reflecting on events even where it is too late to correct them.

We have three sets of recommendations. First, we have proposed a policy and a process for recognizing, reviewing, and responding to complaints that we believe will assure that such complaints are handled fairly and seriously. Second, we have recommended changes to the College's process for approving naming opportunities associated with buildings, scholarship funds, and similar honorifics.

Finally, we urge that the College consider strengthening its policies on consensual relationships. In the course of our discussions we also considered the ethical and practical implications of consensual relationships between faculty and students. Hampshire's current standards do not prohibit such relationships, but require disclosure. In light of the inevitable imbalance of power between faculty and students, several institutions have recently moved to prohibit such relationships. Although it is outside of our original charge, we urge that the school initiate a full discussion of modifying its standards either to prohibit such relationships, or to make the risks and responsibilities more explicit. While we have not proposed a prohibition against consensual relationships between adults if there is no supervisory, instructional, or advising relationship, we think that the College would benefit from a full discussion of the issues.

Historical Complaints of Sexual Misconduct Proposed Policy

All Hampshire College ("the College") community members have the right to personal and sexual safety, respect, integrity, and freedom of expression, as long as such expression does not cause harm or infringe upon the rights of others. The College seeks to maintain a safe learning, living, and working environment. We want to assure that we are treating our entire community with respect. That includes listening and responding to community members who raise concerns about past sexual misconduct connected with the College even if we are limited in our ability to take direct action based on the passage of time or a lack of current authority over the individuals involved.

The College will document concerns and proceed according to the policy outlined below when it receives complaints from alumni or former employees (Complainant) related to incidents that happened while they were at the College, regardless of the length of time since the incident or whether the person whose actions are being reviewed (Respondent) is still affiliated with the College. Any College employee who receives such a complaint is required to immediately report to the College's Title IX Coordinator all relevant details (obtained directly or indirectly) about Sexual Misconduct Violations that involve a College Student or Employee as a Complainant or Respondent, including dates, times, locations, and names of parties and witnesses, if any. The Title IX Coordinator will respond consistent with the following provisions.

The College will first consult with the Complainant to gather information about the reported conduct and ascertain what, if anything, the Complainant seeks in terms of a resolution. The College will also evaluate the status of the Respondent, if known, to determine whether the Respondent has any current affiliation with the College (e.g., current Employee, alumni, etc.), and if so, the nature of the College's disciplinary authority over the Respondent, if any. The College will attempt to identify the policy relevant to the behavior that may have been in place at the time of the complaint. In addition, and especially in cases where the policy at the time of the complaint cannot be determined, the College will review the behavior in light of the Sexual Misconduct, Relationship Violence, and Stalking policy currently in effect. Consistent with the procedures set forth in that policy, the College will consider the

Complainant's stated wishes, the current status of the Respondent, and the goals of the policy to eliminate, prevent, and address the effects of Sexual Misconduct Violations, in evaluating how to proceed.

In some instances, the College may be able to move forward with an investigation and seek disciplinary action against a Respondent consistent with the procedures in the current policy. In other instances, where the College does not have disciplinary authority against a Respondent, the College will work with the Complainant to identify reasonably available and appropriate supports and external reporting options (such as local law enforcement or other relevant authorities). It is important to understand that the College's ability to respond and take action may diminish over time, as memories may have faded or evidence may no longer be available. Nonetheless, in all instances, the College will seek to determine if there are alternative actions, consistent with a Complainant's request, which may be necessary or appropriate to eliminate, prevent, address, or redress any continuing conduct or remedy past harms.

The Title IX Coordinator will inform the President and other designated administrators of any such complaints. The Title IX Coordinator and designated administrators will review the details of the complaint, the Complainant's requested resolution, pertinent policies, and any additional facts obtained through a review process. Title IX Coordinator and designated administrators will provide the President with recommendations as to appropriate next steps. The President should then make a decision that takes into consideration each of the factors noted above.

Recommendation to the Board of Trustees Advancement Committee Regarding Namings

The Committee recommends that the Board of Trustees Advancement Committee add to its various gift acceptance and naming policies the following:

- All gift agreements will include language that "all namings are subject to approval by the Board of Trustees or its designees."
- If, after consideration of a potential naming gift, the Board of Trustees or their designees determine that a gift, or a relationship with a particular donor, or the name the donor seeks to use could be damaging to the College, its mission and values, or its students, the College retains the right to decline either the gift or the naming opportunity related to the gift.

The Committee recommends that the Board of Trustees Advancement Committee add to its naming policies the following process:

- The College is committed to having a process that allows for due diligence on the part of the College and to that end all names associated with the spaces and structures on campus, our endowments, trees, benches, programs, and funds should not conflict with the Mission and Core Values of the College and should not impugn the reputation of the College. Therefore, the approval process for namings will include a review and brief biographical history prepared by College Advancement of the person whose name is being proposed. Such review will be presented to the Advancement Committee along with the request to approve the naming.
 - All information gathered will be considered when evaluating the use of a name.
 - If the named person is/was an employee of the College, the following offices will be contacted: Diversity Office and Title IX Office, which will check their records including those within the Human Resources Office and Dean of Faculty Office to determine if any claims have been substantiated that might violate the standard set forth above.

- If the named person was an alum, the following office will be contacted: Dean of Students Office to determine if any claims have been substantiated that might violate the standard set forth above.
- In all cases, including if the named person is not related to the College, College Advancement will conduct appropriate research to determine if there are obvious and substantiated claims that might violate the standard set forth above.
- Names that are used descriptively for internal use and not as an honor or part of a gift agreement can be used without the approval of the Advancement Committee.

In the case of considering removing any namings made in honor of a person where a complaint has been made, the following process and considerations will be taken into account when making recommendations to the President of the College.

Process:

- All information gathered will be considered when evaluating the use of a name.
- If the named person is/was an employee of the College, the following offices will be contacted: Diversity Office and Title IX Office, which will check their records including those within the Human Resources Office and Dean of Faculty Office to determine if any claims have been substantiated that might violate the standard set forth above.
- If the named person was an alum, the following office will be contacted: Dean of Students Office to determine if any claims have been substantiated that might violate the standard set forth above.
- In all cases, including if the named person is not related to the College, College Advancement will conduct appropriate research to determine if there are obvious and substantiated claims that might violate the standard set forth above.
- College Advancement will provide a brief narrative, if known, of the circumstances that lead to the original naming.

Considerations for all Naming situations:

- What is the nature of the complaint?
- What is the impact on the survivor/victim?
- Does the behavior violate College policies?
- Did the circumstances conflict with College's mission and/or create a hostile environment?
- Can we provide due process to the respondent/accused? In cases where we cannot provide due process what is the impact on the respondent/accused family?
- Does the use of the name conflict with mission and core values of the College?

Recommendation to the Title IX team regarding Consensual Relationships Policy

The Committee recommends that the Title IX team lead a full discussion on campus of how to make our Consensual Relationship policy stronger, including a clearer understanding of the consequences for violating the policy. The Committee urges the Title IX team to take into consideration the interdisciplinary and collaborative nature of our educational pedagogy. The Committee is not looking to prohibit these relationships and does not want to interfere with private choices regarding personal relationship when these relationships do not interfere with the goals and policies of the College.

However, our policy needs to recognize that while all parties are consenting adults, in some cases, there is a real power differential that can compromise the integrity of the educational process.

The Committee recommends that the College continue to require that faculty and staff members not engage in any personal relationship with a student over whom they have a supervisory, evaluative, advisory, or other pedagogical role. If such a relationship exists, faculty or staff members should immediately remove themselves from any supervisory, evaluative, advisory, or other pedagogical role involving the student. Additionally, the Committee recommends that our policy be amended to include a process in which all parties involved consider what will happen in the absence of this person and how it may deprive the student of educational, advising, or career opportunities. Both parties should be mindful of the potential costs to the student before entering into any such relationship.