

January 29, 2014

Rebecca Chopp, Ph.D.
President
Swarthmore College
500 College Avenue
Swarthmore, Pennsylvania 19081

RE: Executive Summary

Dear President Chopp:

We are pleased to forward this Executive Summary of our assessment of Swarthmore College's Title IX sexual and gender violence and Clery Act programs. The overall goal of our review, training sessions, and open conversations with students, faculty and staff was to provide the College with an objective view of its policies and practices for creating an environment of respect, and efforts to prevent and respond to reports of sexual assault and harassment, while complying with applicable guidelines and evolving best practices.

Since you retained us in April 2013 to review your policies and procedures, and continuing to the present, the College has taken numerous significant steps to address the recommendations in our Summer 2013 report and further enhance its prevention-based initiatives and response to reports of sexual assault and harassment. We applaud these efforts and the commitment of the entire Swarthmore College community -- students, faculty, and staff -- to improve the culture and tackle these issues head-on. To be sure, the issue of higher education's response to sexual misconduct is not isolated to Swarthmore College. Over the past several years, colleges and universities have faced unprecedented attention regarding the institutional response to sexual assaults on campus -- from their own students, the public, the courts, and the Department of Education, and the Department of Justice. As Title IX, Clery and the Campus SaVE Act have become a daily topic of conversation on many campuses, many institutions have worked diligently to ensure their policies and practices meet the guidance in the April 2011 Dear Colleague Letter, evolving insights from Resolution Agreements between the Department of Education's Office of Civil Rights (OCR) and institutions under review, and best and promising practices in preventing and responding to incidents of sexual misconduct. We believe that community expectations are rightfully high that Swarthmore College will be a leader in these areas.

We are convinced, based on our work with the Swarthmore College community, that the College and its members remain committed to creating a safe and healthy campus environment. The recommendations in our reports are intended to provide a clear roadmap for the continuous development of an integrated and comprehensive approach to preventing and responding to sexual assault and harassment.

Sincerely,

MARGOLIS HEALY & ASSOCIATES, LLC

/signed/

Steven J. Healy
Managing Partner



Swarthmore College

Title IX and Clery Act Assessment

Executive Summary

EXECUTIVE SUMMARY

PURPOSE

This Executive Summary provides an overview of the major recommendations from the Margolis Healy assessment of Swarthmore College's compliance with Title IX sexual and gender violence requirements and the Clery Act.

BACKGROUND

On April 15, 2013, Swarthmore College President Rebecca Chopp announced the decision to hire an external firm to thoroughly review the College's sexual assault policies, programs, staffing, and adjudication, partly in response to student newspaper accounts of the College's handling of sexual assault complaints, and also because of its sincere desire to ensure it was responding appropriately, and legally, to incidents of sexual harassment and assault. Three days later, Swarthmore students announced that they had filed a Clery Act complaint with the Department of Education. On May 2, President Chopp shared with the college community that Swarthmore had retained Margolis Healy & Associates (MHA) to conduct the external review.

Our scope of work included comprehensive reviews of the College's policies, procedures, and practices related to Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in all educational programs and activities that receive federal financial assistance and the College's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (referred to as the Clery Act; (20 USC §1092(f)), a federal law that requires the annual disclosure of campus crime statistics and information about certain security policies and programs and real time disclosure of information related to safety and security threats and crimes reported to the campus security authorities. An important part of our review was to hear firsthand from victim/survivors about their experiences when they came forward to College administrators for support and to seek redress.

At the beginning of this review, we requested and received numerous College documents related to sexual misconduct policies and Clery Act compliance. Before, during and after our visits, we conducted and continue to conduct extensive reviews of these documents, which included copies of all College grievance procedures (pertaining, as applicable, to anti-harassment, sexual assault, staff/faculty misconduct, and/or general student misconduct prohibitions and procedures); policies providing for the prompt and equitable resolution of student and employee sex discrimination; policies related to sexual harassment and/or sexual violence complaints; descriptions of relevant resources, listings of academic/residential accommodations; documents relating to advice for victim/survivors of sexual violence; documents pertaining to the curriculum for training programs developed and delivered by the College to ensure those persons involved in implementing related investigations and grievance procedures

have appropriate training and/or experience in handling investigations and adjudicating complaints; and records verifying such training, among other documents.

We have worked closely with the Task Force on Sexual Misconduct, comprised of Swarthmore students, faculty, staff, and members of the Board of Managers. The Task Force, according to its Chair, Professor of Sociology Sarah Willie-LeBreton, will “offer recommendations that ensure the College fulfills its obligations in a manner that is both within the letter of the law and its spirit.” The Task Force has focused primarily on ways to improve how Swarthmore community members relate to each other, foster mutual respect, and achieve the conditions necessary to ensure a safer space for everyone who lives and works at Swarthmore College.

We issued our Part I, July 2013 Report outlining near and longer-term recommendations for the College to consider to address its policies, procedures and practices related to Title IX and the Clery Act. The College embraced those recommendations and has made steady progress implementing them over the summer and into the fall semester. The Part II, January 2014 Report includes additional observations and recommendations arising from the open campus conversations and our on-going engagement with the College.

DISCUSSION

Our review and assistance during this assessment focused on gaining a better understanding of the Swarthmore College culture, policies, systems, and practices for preventing and responding to issues of sexual assault and harassment. The first site visit in May consisted primarily of policy review, interviews with key College stakeholders, and meetings with self-identified survivors of sexual harassment and assault, and their support persons. Our second site visit in June was a comprehensive assessment of the College’s compliance with the Clery Act policies, procedures, and practices. Finally, during our third site visit in late September 2013, we met with a wide range of Swarthmore College community members in open conversations intended to understand the various dimensions of the campus climate, and understand how the College community perceived the changes made during the summer and early fall. In the last several months, MHA conducted several training sessions: Title IX training for responsible employees; training for administrative and campus public safety investigators who conduct sexual assault investigations; and general Title IX orientations for campus community members at-large. All of these visits to campus have informed the recommendations made in parts one and two of this report, for enhancing the College’s prevention, response, and compliance efforts.

Recommendations

In Part I Report, issued in July, 2013, we identified several thematic areas for the College to address in the near term to enhance its programs to prevent sexual misconduct, respond in a prompt and equitable manner to reports of sexual misconduct and comply with applicable guidelines and evolving best practices, including Title IX and the Clery Act. Many of these initial recommendations related to personnel, policies, and training. Below is a list of these recommendations and the progress to date.

1. Create a dedicated Title IX Coordinator to focus full attention on ensuring an integrated approach to Title IX compliance, including the guidance in the Department of Education's April 4, 2011 Dear Colleague Letter and evolving practices related to Title IX sexual and gender violence response. The College named an interim Title IX Coordinator, Patricia Fischette, and launched a national search for a fulltime Coordinator. The College also named four deputy coordinators to assist in specific areas of the College.
2. Revise existing policies related to sexual assault and misconduct to ensure consistency, compliance with prevailing guidance, and coordination across the College. In September 2013, the College issued an Interim Policy on Sexual Assault and Harassment. This policy addresses the broad range of issues related to sexual misconduct, including available resources for complainants and respondents and the College's grievance procedures.
3. The College should provide appropriate support to both victims and respondents by creating a sexual misconduct support function dedicated to providing advocacy and support for victim/survivors of assault and harassment. We likewise recommended the College commit dedicated resources for respondents. The College adopted both of these recommendations, hiring a Violence Prevention Advocate and Educator for victim/survivors. The College just recently named a Grievance Advisor and Community Educator to support respondents and augment prevention programming, including bystander intervention training.
4. Enhance investigative capacity to effectively respond to multiple simultaneous reports of sexual assault and harassment and to ensure responsive, thorough, and impartial investigations. In October 2013, the College hired an experienced sexual assault investigator to assume the primary role of conducting these investigations.
5. Provide additional training for those selected for these important positions. The College provided a 3.5-day training program for public safety and administrative investigators. This training program was based on current best practices in the investigation of sexual assault.
6. Enhance the College's response to high risk drinking. It is important to acknowledge that violence prevention programs are situated within a broader environment and to take that context into account when developing

prevention efforts. This includes many aspects, for example, the geographic environment, the institutional culture, the social environment, and student norms of behavior. One aspect of the broader environment includes the role of alcohol in the campus community. Strong alcohol and other drug (AOD) abuse prevention efforts can be an important complement to dedicated efforts to address sexual violence, intimate partner violence, and stalking. The College has successfully recruited for the AOD position, and the AOD Counselor and Educator began working for the College in November.

7. Develop a coordinated education and prevention programming strategy to provide comprehensive, clear, and consistent information and education regarding sexual misconduct, in line with best practices, as well as the DCL's recommendations for proactive measures to prevent sexual misconduct. The College has adopted some of our suggestions in this area, and required all incoming students to take an on-line program entitled "Lasting Choices: Protecting Our Campus from Sexual Assault," that addresses the issues of sexual misconduct. The College also launched a comprehensive sexual assault and harassment website that provides information about resources for victim/survivors as well as information about policies, programming, and staff support.
8. Develop a comprehensive training plan, for the entire campus community, with priority for those who are most likely to receive complaints of sexual conduct. Since July 2013, the College has implemented significant additional training, including a comprehensive Title IX Orientation Program for key staff, sexual assault investigations training for public safety and administrative investigators, Clery Act orientation as part of the HR Professional Development series, general awareness level training for campus community members at large, and extensive training for students, as well, including RAs, SAMs, PAs, ASAP, SMARTeam and DART members. The College has also trained its Campus Security Authorities (CSAs) on their responsibilities as CSAs.
9. Continue to enhance compliance with the Clery Act by forming a Clery Act Compliance Committee and identifying and training all Campus Security Authorities. This committee, which includes students, faculty, and staff, was named and began its work in December.

ADDITIONAL RECOMMENDATIONS

Based on our continued work with the College during the Fall 2013, we identified several additional areas that the College should continue to address to further enhance its efforts to prevent and respond to issues of sexual misconduct and summarized these in part two of our report. These areas can be organized around the themes of culture, prevention and education, communications, and additional augmentation to training efforts, policies, and operations.

Creating a Culture of Respect and Accountability

The College should continue to build and enhance the Swarthmore culture of respect and accountability by launching an initiative to agree upon the form and fashion of discovering and articulating common community values. President Chopp should initiate a process for this initiative. When the community articulates and affirms the core values, they should be ingrained into every facet of College life.

10. Decide on the focus and framing for the College's primary prevention efforts. Specifically,
 - Assess current norms, beliefs, values, and skills related to preventing perpetration and practicing positive and healthy behaviors through a periodic climate survey.
 - Ground discussions about behaviors in a larger discussion of campus culture, values, and intersecting issues. These conversations may intersect with other campus climate work already underway, particularly those related to diversity and inclusion.
 - Connect knowledge to behaviors and skills by specifically infusing values into codes of conduct, policies, and prevention programming.
 - Identify specific positive behaviors to promote (i.e., what TO do) and plan efforts to provide needed information and practice to perform those behaviors.
 - Build prevention initiatives in an intentional sequence to introduce, practice, and reinforce the identified skills.
11. Develop a mechanism for surveying the campus climate and in particular to assess the changes to Swarthmore's policies, procedures, and reporting options. Include the areas related to response outlined in the University of Montana Resolution Agreement, specifically:
 - Assess students' attitudes and knowledge regarding sexual harassment, sexual assault, and retaliation; gather information regarding students' experience with sex discrimination while attending the College; determine whether students know when and how to report such misconduct; gauge students' comfort level with reporting such misconduct; identify any barriers to reporting; and solicit student input on how the College can encourage students to report sexual harassment, sexual assault, and retaliation, and better respond to such reports. (The University of Montana Resolution Agreement also includes assessing outreach, education, and prevention efforts to identify which strategies are effective, which relates to prevention.) The College should use results from these surveys, take appropriate action to address climate issues related to sex-based harassment identified through the surveys.

Enhance Prevention and Education Efforts

Swarthmore must continue to work to ensure efforts to create a coordinated and integrated primary prevention plan include an ongoing sequence of educational efforts that build upon each other over the course of the year and throughout a student's college career.

12. Consider increasing the number of professional staff hours specifically dedicated to primary prevention by assigning responsibility for specific areas of prevention to multiple staff members as well as student peer leader groups.
13. Closely examine staffing in residential life to ensure sufficient capacity to provide prevention programming in the residential setting.
14. Ensure that staff members charged with prevention have sufficient time and institutional support to remain current in this rapidly evolving field, e.g., through conferences, trainings, webinars, library support or research assistance (i.e. to assist staff in reviewing current research literature). Where necessary, consider increasing staffing to provide continuity and consistency in prevention programming.
15. Review any relevant findings from existing student surveys and use these results to inform prevention efforts. Conduct regular assessments of education and prevention activities and use this information to inform outreach, education, and prevention efforts.
16. The College should also compile existing data to inform their efforts. For example, aggregating descriptive information about reported incidents such as location, circumstances, and characteristics of offenders can help to guide efforts by highlighting problematic contexts or social groups. The College's institutional research page lists other recent and upcoming surveys that may provide information that can inform educational efforts. For example, the 2012 Survey of New Students found that nearly two-thirds of students say that they are likely to serve in a peer-mentoring role at college, which suggests that peer mentors may be an appropriate group to train in sexual and relationship violence and stalking issues.
17. Examine the social environment and in particular the events that the College identifies as posing a high risk for excessive alcohol consumption and other dangerous behaviors. Emphasize responsible and legal alcohol consumption in all programming. Expand resources available for dry programming, particularly events led by students.

Communicate Clearly and Consistently

18. Swarthmore must continue to provide regular updates to the community about its efforts to identify and address the issues of sexual and gender violence. We heard feedback that students do not read lengthy emails, so it may make sense to provide briefer updates more frequently, and to post this

information in one place so that students can refer back to it. In addition, the Title IX Coordinator, and the College's judicial affairs coordinator, should provide regular updates to the community on relevant initiatives and outcomes.

19. Ensure the widest possible dissemination of policies and procedures related to sexual assault and harassment and reporting options. Consider developing supplemental materials that clearly designate and publicize which offices and/or individuals provide complainant and respondent support functions, the scope of these services, and the confidentiality level of each resource. Provide these materials to faculty, staff, and administrators as part of training and teach supportive ways to refer individuals to these support services.
20. Ensure information about confidential and anonymous reporting is widely distributed to the campus community.
21. Use a variety of means to ensure that the community is aware of and educated about the adjudication process.
22. The College should formally designate the Title IX Coordinator as the College officer responsible for the Policy on Sexual Assault; finalize the Interim Policy on Sexual Assault by the summer of 2014 for all campus constituencies; and require an annual review of the final policy.

Augment Training Programs

Ensure that training for new students, and especially affinity groups, includes information about both sexual harassment and sexual violence (and by March, when the Campus SAVE Act is law, relationship violence and stalking), and discusses where to report such concerns on campus and with law enforcement, specifies that those procedures are available and not mutually exclusive, clearly states where to receive confidential assistance, and outlines available support services.

All trainings should be reviewed by the Title IX Coordinator to ensure they use OCR definitions of sexual harassment/sexual violence and are otherwise consistent with the DCL and other OCR guidance concerning sexual harassment and violence and the College's prohibition on retaliation. The College should ensure recurring and appropriate training for all individuals involved in the adjudication of sexual misconduct.

23. Provide training to ensure that confidential resources understand the grievance procedures and can answer questions about them for potential complainants.
24. Identify and train all sexual misconduct first responders on appropriate response to initial reports (recognizing the first response is different from investigations). At a minimum, first responders should receive some form of training at least once each academic year.

25. Ensure sexual misconduct investigators receive comprehensive and ongoing training, including, but not limited to, the following topics:
 - a. The role of use of alcohol and other drugs in sexual assault;
 - b. The investigatory and adjudication processes;
 - c. Victim trauma

Strengthen Operational Support Systems

26. Ensure the College has an appropriate software system to track all reported incidents of sexual and gender violence, with robust reporting options and coordination with Public Safety's records management system, for statistical reporting.
27. Offer several adjudicatory options. The College must ensure that there is no bias, and that panel members, the Student Conduct Administrator, and/or the external adjudicator receive recurring training on the unique issues involving sexual assault and harassment.
28. Immediately task the Clery Act Coordinating Committee with guiding the implementation of the Campus SaVE Act, noting that the College is currently required to make a good faith effort to comply with the changes and will be required to comply no later than March 2014.

The Swarthmore College community, including the administration and students, has embraced this opportunity to consider its culture, and how community values can impact issues related to sexual and gender violence. The College has also committed significant resources to enhancing its sexual harassment and assault systems, policies, and procedures. While it is impossible to prevent every instance of sexual violence and harassment, we believe the College is well on its way to implementing model approaches to address this very complex issue. In our view, excellence in this area is not a destination, but an ongoing process that requires constant vigilance and evolution as promising practices emerge. We are confident that the College has the appropriate mindset, commitment, and infrastructure to reasonably prevent and respond to issues of sexual and gender violence. We applaud the College for its transparency and willingness to enthusiastically support change and serve as a leader in this area.

**TITLE IX (SEXUAL AND GENDER VIOLENCE)
AND CLERY ACT ASSESSMENT**

PART I REPORT, JULY 2013

I. Context

Swarthmore College is at a critical crossroads – on the one hand, President Chopp recognized the need for an objective, external review to assess the College’s policies and practices for preventing and responding to sexual misconduct – while on the other, and shortly after that review was announced, students filed complaints with the U.S. Department of Education alleging that the College has not done enough to create an environment free from sexual misconduct. In our professional opinion, the College has taken progressively meaningful and impactful steps to foster a culture free from sexual misconduct since the Department of Education (ED) Office of Civil Rights (OCR) issued its Dear Colleague Letter (DCL) in April 2011. These efforts included designating a Title IX Coordinator; assigning a newly hired staff member to serve as the primary investigator for complaints of sexual harassment/assault; and conducting training for faculty, staff, and students. In spite of these actions, there is much work needed to ensure the College has firmly grounded and fully compliant policies, procedures, and practices to prevent and respond to allegations of sexual misconduct. Additionally, recently enacted amendments to the Clery Act, known collectively as the Campus Sexual Violence Elimination Act (Campus SaVE), impose new obligations on colleges and universities to do more about sexual and gender violence, including sexual assault, domestic and intimate partner violence, and stalking. (The Department of Education expects institutions to make a good faith effort to comply with the statutory requirements in accordance with the statutory effective date of March 7, 2013, while the reporting requirements are effective with the annual security report published by October 1, 2014.)

Our review to date has focused on gaining a better understanding of the culture, policies, systems, and practices for preventing and responding to issues of sexual misconduct. Our ongoing work will engage with the wider Swarthmore College community to identify challenges faced by complainants at the College, better understand how sexual misconduct is perceived by the wider College community, and develop additional recommendations for improving the College’s prevention and response initiatives based on these insights.

In the interim, however, we have identified a number of essential opportunities for the College to consider in order to enhance its compliance with Title IX (and associated guidance), the Clery Act, and best and promising practices for preventing and responding to complaints of sexual misconduct. In our professional opinion, implementation of many of the near-term recommendations in this first report will lead to clearer, more concise policies and transparent processes. We outline these opportunities and ways to achieve them in the pages that follow.

II. Charge

Swarthmore College retained Margolis Healy & Associates (MHA) to assess the College's policies, procedures, and practices related to Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in all educational programs and activities that receive federal financial assistance and the College's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (referred to as the Clery Act; (20 USC §1092(f)), a federal law that requires the annual disclosure of campus crime statistics and information about certain security policies and programs and real time disclosure of information related to safety and security threats and crimes reported to the campus security authorities. (We note, as well, that there have been two complaints lodged with the Department of Education by two Swarthmore students (and others, as yet unidentified) against the College alleging violations of the Clery Act and Title IX. MHA does not have access to the actual complaints. An important part of our assessment is to hear firsthand from survivors about their experiences. We have already met with some survivors and will continue to do so in the fall.). We intend to work in concert with the newly established Task Force on Sexual Misconduct, comprised of Swarthmore students, faculty, staff, and members of the Board of Managers. The Task Force, according to its Chair, Professor of Sociology Sarah Willie-LeBreton, will "offer recommendations that ensure the College fulfills its obligations in a manner that is both within the letter of the law and its spirit." The Task Force has been meeting this summer and was urged, by President Chopp, to go beyond their primary charge and recommend ways of improving how Swarthmore community members "relate to each other, ideas for fostering greater mutual respect, and suggestions for achieving the conditions necessary to ensure a safer space for everyone who lives and works at Swarthmore College."

III. Summary of Documents & Policy Review

Before our site visits, we requested and received numerous College documents related to sexual misconduct policies and Clery Act compliance. Before, during and after our visits, we conducted and continue to conduct extensive reviews of these documents, which included copies of all College grievance procedures (pertaining, as applicable, to anti-harassment, sexual assault, staff/faculty misconduct, and/or general student misconduct prohibitions and procedures); policies providing for the prompt and equitable resolution of student and employee sex discrimination; policies related to sexual harassment and/or sexual violence complaints; descriptions of relevant resources, listings of academic/residential accommodations; documents relating to advice for victims of sexual violence; documents pertaining to the curriculum for training programs developed and delivered by the College to ensure those persons involved in implementing related investigations and grievance procedures have appropriate training and/or experience in handling investigations and adjudicating complaints; and records verifying such training, among other documents.

IV. Summary of Our Work to Date

The MHA team, consisting of MHA Managing Partner and Project Manager Steven J. Healy; MHA Managing Partner Dr. Gary J. Margolis; Associate(s) Pamela Heatlie, Esq.; Dr. Linda Langford; Anne Munch, Esq.; and Thomas R. Tremblay, conducted extensive documentation review and research before and during our initial visit to campus from Monday, May 20 through Thursday, May 23, 2013. The team conducted interviews of faculty and staff in various departments related to the scope of work, and met with stakeholders including College leadership; the Task Force on Sexual Misconduct; the Title IX Coordinator; staff from the Deans' Office (including Worth Health Center and CAPS), Public Safety, Athletics, Human Resources; self-identified survivors; peer advisors; and other campus community members. These sessions were intended, first and foremost, to orient our team to the systems, people, and culture surrounding Swarthmore's response to reports of sexual misconduct. Steven J. Healy, and MHA Associate Michael Webster visited the campus a second time from Wednesday, June 19 through Friday, June 21, 2013 to focus specifically on Clery Act compliance. Additional campus visits are being conducted in July, August and September, 2013.

V. Recommendations

Based on our on-going research, site visits, and continuing conversations with members of the Swarthmore College community, we have identified a number of actions the College should consider during the coming months to enhance its compliance with Title IX (and associated guidance), the Clery Act, and best and promising practices for preventing and responding to complaints of sexual misconduct. The recommendations that follow reflect our assessment of steps the College can take in the near-term, in keeping with its desire to institute immediate, effective change. We will issue part two of our report, with a complete list of recommendations, following additional campus visits in the fall.

- **Title IX Coordinator and Deputy Coordinators**

- Based on our initial assessment of Swarthmore's structures and systems to ensure Title IX compliance, we recommend the College create an independent Title IX Coordinator position, reporting directly to the President or other appropriate cabinet level officer. Given that the College will likely need to fill this position through a national search, we further recommend an interim appointment, filled by an individual who can dedicate their full attention to managing the immediate implementation of the changes outlined in this initial report. The Title IX Coordinator should assume the oversight responsibilities outlined in the April 4, 2011 DCL.
- The College should revisit its current designations of Deputy Title IX Coordinators and appoint individuals to serve the various constituent groups at the College. Specifically, the College should consider appointing individuals in the Office of Human Resources (staff), the Dean's Office (students), the Provost's Office (faculty), and Athletics (student athletes) to

support the Title IX Coordinator's responsibilities of overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of Title IX complaints. The College should identify and designate these positions during the summer months and ensure they receive necessary training before the start of the 2013-2014 Academic Year.

- **Notice of Title IX Coordinator, Notice of Non-Discrimination, and Related Sexual Misconduct Policies**

- The College should revise the Notice of Sexual Misconduct Policy (and Sexual Misconduct Policy) to include full contact information for the Title IX Coordinator, to clearly state that inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or the U.S Department of Education Office of Civil Rights (OCR), and to indicate that sex discrimination is prohibited in the College's education programs and activities. The Notice (and Sexual Misconduct Policy) should also be clear that it applies to employment and admissions.
- Review the Sexual Misconduct Policy and the two Prohibition of Sexual and Discriminatory Harassment policies for consistency in terms of content, definitions and terminology and to ensure they address sexual discrimination (including sexual misconduct) by any individual whether student, faculty, staff or visitor/third party.
- Create a comprehensive sexual misconduct response and investigation policy based on national best practices and model policies, including directives for staff to follow, and that includes MOU's with local police and local victim service providers.

- **Identify dedicated, trained support for complainants and respondents**

- The College should create a sexual misconduct support function dedicated to providing advocacy and support for survivors of sexual assault and other forms of sexual harassment. This individual will primarily be responsible for helping victim/survivors' navigate the College's resources and systems to ensure appropriate support, and guidance throughout. The advocate will work closely with other College staff already providing support to survivor groups, such as Beth Kotarski, who advises the SMART Team students. We believe this position logically aligns with Student Life (or appropriate sub-division).
- With respect to the DCL's requirements for institutions to provide prompt and equitable resolution of sexual harassment complaints, we recommend the College also commit dedicated resources for respondents, including support through the grievance process.

- **Enhance investigative capacity**

- The College needs additional capacity to effectively respond to multiple simultaneous reports of sexual misconduct and to ensure adequate, reliable, and impartial investigations of such reports. The College should address this issue by training more of its staff, consider hiring an additional investigator, and through appropriate outsourcing, if necessary. All investigators should receive current, best practice based training for investigating reports of sexual misconduct. MHA is currently working with the Department of Public Safety to arrange this training.

- **Enhance the College's response to High Risk Drinking**

- While this assessment is not a review of the College's Alcohol and Other Drugs (AOD) policies and drinking and other substance abuse culture, we would be remiss to ignore the role of AOD in sexual and gender violence. In addition, it is important to be aware that violence prevention programs are situated within a broader environment and to take that context into account when developing prevention efforts. This includes many aspects, for example, the geographic environment, the institutional culture, the social environment, and student norms of behavior. One aspect of the broader environment includes the role of alcohol in the campus community. Because campuses with higher levels of alcohol abuse experience more crime and violence generally, including sexual violence,^{1,2} strong alcohol and other drug abuse prevention efforts can be an important complement to dedicated efforts to address sexual violence, intimate partner violence, and stalking. Over the longer term, we recommend the College conduct a comprehensive examination of the social environment on campus and in particular, the events identified or perceived as high risk for sexual misconduct and consider whether additional prevention and mitigation efforts are merited beyond the current risk reduction programs. The organization, management, and norms surrounding these events may be creating a climate in which sexual aggression can flourish and victims are less likely to be believed.
- A strong AOD program and staff is critical to the College's success in this area. We recommend a dedicated, trained, and certified professional with expertise in alcohol and other drug counseling be part of the College's broader commitment to health and wellness efforts. The individual in this role should have expertise in state-of-the-art alcohol prevention practices (i.e., evidence-based practices in campus AOD prevention, environmental management, and brief interventions/BASICS). The individual should also have expertise concerning the current literature regarding AOD abuse, dependence and addiction and dual diagnoses involving AOD. We highly recommend the de-coupling of this role with any other role that potentially conflicts with the primary role of an AOD counselor or programming staff.

¹Grossman, M., and Markowitz, S. *Alcohol Regulation and Violence on College Campuses*. Nber Working Paper No. 7129 (Cambridge, Mass.: National Bureau of Economic Research, 1999). Available online at <http://www.nber.org/papers/w7129>.

²Wechsler, H., Lee, J. E., Kuo, M., Seibring, M., Nelson, T. F., & Lee, H. (2002). Trends in college binge drinking during a period of increased prevention efforts. Findings from 4 Harvard School of Public Health College Alcohol Study surveys: 1993-2001. *Journal of American College Health*: 50(5), 203-217.

• Education and Prevention Programming

- The College must provide comprehensive, clear, and consistent information and education regarding sexual assault, harassment, and other forms of sexual misconduct to meet the DCL's recommendations for proactive measures to prevent sexual misconduct. Since strong student involvement and ownership is a hallmark of the College's current educational efforts, the College should build upon these efforts by continuing and enhancing its close work with the SMARTeam and ASAP to refine information, publications, trainings, etc. One possible option would be to require new students to take an on online course and adjust the orientation sessions accordingly. If feasible, the College may wish to consider involving SMART team members in choosing the online course for incoming students. We are in the process of identifying possible online courses appropriate for Swarthmore College.
- Immediately undertake a comprehensive inventory of current education and prevention efforts that includes describing each program in detail, including its objectives/learning outcomes, audience, content, format and delivery mode, reach, effectiveness, and other key attributes. Use this inventory to identify gaps, ways to strengthen current efforts, and needed revisions to comply with federal mandates and best practices in the field. Engage the Task Force on Sexual Misconduct and other student groups in this initiative.

• Training

- The College should develop a comprehensive training plan, which can begin to be implemented in late summer and throughout the fall, for all members of the College community, prioritizing those who are most likely to receive complaints of sexual conduct.¹ During our campus visits, we heard multiple accounts – from self-identified survivors, staff, and campus community members-at-large – that led us to conclude that there are significant opportunities to improve training and education on the College's goals and policies related to sexual misconduct. These opportunities include enhanced guidance and training about what types of responses to disclosures are compliant with Title IX obligations, supportive to the individual, and role-appropriate; what responses are inappropriate and outside the scope of an initial response; and on supportive ways to inform complainants and respondents about support services. The training should ensure that confidential resources understand the grievance procedures and can articulate them to complainants or others.
- Even as we begin to look more comprehensively at the College grievance procedure, it is clear that individuals responsible for administering grievance procedures should be knowledgeable about how to do so in a non-judgmental manner, and should be otherwise aware of how to interact with individuals who have concerns about misconduct, or have had such a

³While not specific to higher education settings, a helpful resource for creating a training plan is Training Professionals in the Primary Prevention of Sexual and Intimate Partner Violence: A Planning Guide, available at http://www.cdc.gov/violenceprevention/pdf/Training_Practice_Guidelines.pdf.

complaint brought against them. Beginning this fall, the College should build specific content into the training designed to create responses that are sensitive to the distinct experiences of victims of sexual assault. For example, the training might include statements and behaviors that were perceived as victim blaming, and conversely, approaches that felt validating and supportive. Whenever possible, training should include active learning techniques like scenario-based learning and role-plays to build skills for supportive and role-appropriate responses.

- Consider developing supplemental materials that clearly designate and publicize which offices and/or individuals provide complainant and respondent support functions, the scope of these services, and the confidentiality level of each resource. Provide these materials to faculty, staff, and administrators as part of training and teach supportive ways to refer individuals to these support services. This information should be provided to the campus community through a number of modalities including a mobile app platform for sharing important safety and security information.

• **Clery Act Compliance Enhancements**

- Overall, the College has made significant improvements in its compliance program over the past year or so. Many of the improvement are directly attributable to the new Director and Associate Director of Public Safety. There are several remaining areas that the College should work to improve in the near term, including the following:
 - o Charter and form a Clery Compliance Coordinating Committee. The goal of this committee is to guide the College’s Clery compliance activities;
 - o Revise the procedures for determining when to issue a Timely Warning Reports;
 - o Clarify the process for classifying Clery Act crimes;
 - o In the fall, begin to enhance systems and processes for the collection of crime data from non-public safety Campus Security Authorities (CSAs); and,
 - o Ensure identification, notification and training of all CSAs. This training should occur in conjunction with previously scheduled sessions (such as RA training in August) or in the fall once the semester is in full swing.

• **Immediate Next Steps**

- The College should undertake a comprehensive review of its grievance procedures to address any procedural deficiencies and revise them to ensure they are user-friendly and don’t create barriers to reporting. Easily understood procedures play a large part in ensuring that members of the

College feel encouraged to come forward with sexual misconduct concerns. Additionally, once the procedures are revised and appropriately vetted with the campus community, we suggest an aggressive strategy to ensure the procedures are easily accessible and fully understood by those College members who are likely to receive complaints, including confidential resources. We will be on campus the week of July 15 to assist with this ongoing review.

While we have been able to glean much about the College's policies and practices in the areas under review, and hear about the experiences and perceptions of some survivors, we recognize that we have not had the opportunity to hear from all who should have a voice in these important discussions. Our work will continue over the summer and into the fall when we return to campus for additional interviews, documentation review, and focus groups. Part two of our report will articulate additional steps the College should take to continue its efforts to become a national model in the prevention, support, programming, and adjudication of sexual misconduct on college campuses.

**TITLE IX (SEXUAL AND GENDER VIOLENCE)
AND CLERY ACT ASSESSMENT**

PART II REPORT, JANUARY 2014

Introduction

In our professional opinion, the key to successfully preventing sexual and gender violence is to create an environment of respect and accountability. The ultimate goal is to prevent abusive behaviors, ensure the College can respond fairly and promptly when sexual misconduct does occur, and engender respectful norms of interpersonal behaviors. Given these ideals, we focused our approach during the second phase of our work in these three overlapping areas: creating a respectful and accountable campus culture, preventing incidents of sexual misconduct, and responding appropriately when incidents are reported.

Discussion

Engage the Community to Create a Culture of Respect and Accountability

Culture is best explained as the characteristics of a particular group of people, as defined by their language, social habits, music, arts, and other attributes. For the purposes of this assessment, we expand those attributes of campus culture to include the norms by which community members treat one another; supporting systems (both formal and informal); the “party” scene, including rates of high risk drinking; and other factors such as the nature of dating relationships. Combined, these characteristics all facilitate or inhibit a healthy, respectful environment. Given this premise, it is important to note the reality that community members, and community members alone, are responsible for creating the type of campus culture to which they aspire. As outsiders conducting an objective examination of the many issues related to sexual misconduct, our purpose in this regard is to serve as the community’s mirror – and to reflect back to the campus those characteristics of the campus culture expressed by community members during our assessment.

It was clear to the MHA team during all of our visits to campus that the Swarthmore community is a vibrant and engaged group, including students, faculty, and staff. In all of our open conversations, attendees freely expressed their thoughts about the complex issues surrounding the very public complaints alleged against the College, the roots of sexual misconduct on campus, and ways to reasonably prevent sexual harassment and assault.

Prevention and education efforts should take into account the unique culture and context of the institution and student body. It is important to recognize that even on a small campus like Swarthmore we cannot presume that there is one, unified culture. During our site visit in September, we heard from a self-selected group of individuals, who chose to attend group meetings, schedule individual appointments, or communicate by email. Below we summarize some of the key cultural values that were described repeatedly across multiple interviews, recognizing that they do not necessarily represent the full diversity of views across the entire campus.

Interviewees at the College described the following attributes of the campus culture that should facilitate a culture of respect.

- Swarthmore students are vocal and articulate, and dialogue is valued;
- Many students expressed a strong sense of commitment to social justice and civic responsibility;
- There is a strong commitment to excellence, and a desire for Swarthmore to be the best it can be;
- There is a history of strong student leadership, and students will devote substantial time and energy to issues that are important to them;
- Students tend to have a high degree of sensitivity to multiple types of inequity and oppression (e.g., sexism, heterosexism, racism, etc.); and;
- Diversity and inclusion are valued.

Campus community members also expressed the following ideals during our open conversations.

- Values (Quaker values, living your values)
- Community (including “what does it mean to us to be a community?”)
- Responsibility (many people used this word, although it was not clearly defined)
- Respect

The College should leverage these expressed dimensions of its culture in the design of prevention programming. For example, educational programs with a strong component of verbal expression may be a good fit. Educational programs can also connect to other issues of concern, for example, by exploring gender-based violence in the context of the intersectionality of multiple forms of oppression.

One theme we heard repeatedly is that Swarthmore is an “accommodating culture.” That is, there is a strong value placed on taking care of students, staff, and faculty in difficulty and bending over backwards to help them and provide multiple chances. On the one hand, stakeholders recognize this as an asset: the College is an enormously caring and generous institution. However, some interviewees felt that this practice can translate to a lack of consequences or limits on behavior. As noted earlier, accountability is an important component of a respectful and civil campus community. As part of its exploration of what it means to be a values-based community, we suggest the College consider balancing the desire to be an accommodating culture to with the need to also be an “accountable” one, in which there are non-negotiable community standards, including individual and community safety, transparency, fairness, equal educational and workplace opportunities, and consistent enforcement of the laws and policies using a transparent process.

We also heard a constant refrain about the need for a set of articulated community values as part of a visible proclamation about the Swarthmore ethos.

This conversation varied from calls for an “honor code,” to the adoption of a set of agreed upon values, and finally to a pledge that students would take upon entering the Swarthmore College community. In our professional opinion, this idea merits serious and on-going deliberation as one way of encouraging a shared sense of community norms and recommend President Chopp task a group to lead this conversation. The conversation could begin with a series of open dialogues about adopting a set of core values that enable the community to discuss and process what they mean, how to carry them out in behavior, etc. This process would model the idea of diversity – different values can mean different things to different people – and to teach the skills of reflection, dialogue, listening, and hearing.

Our queries about culture often led to discussions about alcohol use on campus. This was expected given the challenges campuses across the nation face when grappling with issues related to high risk and dangerous drinking. It is important to note that alcohol use alone does not cause sexual assault. Unchecked heavy drinking environments, however, create a constellation of circumstances in which several unsafe and unhealthy behaviors are more likely to occur. These environments can also provide “social cover” for predatory sexual aggression. We applaud Swarthmore students for taking the lead to institute innovative educational efforts related to the events where there is heavy alcohol use. However, best practices suggests the importance of the institution and students also taking responsibility for proactively assessing the risks of these events and/or changing or eliminating them if they conclude the risks cannot be sufficiently mitigated.

No matter the approach the College takes to continue to build a culture of respect and accountability, where sexual misconduct is a rarity, it is clear to us that this will not occur over night nor will it happen as a result on one or two meetings with students. Given this premise, we suggest the College: 1) embark on a thoughtful process of engagement with campus community members to identify a set of agreed-upon core values; 2) decide on a process to “enlist” community to adopt these values; 3) include the core values in all programming efforts; and 4) include the core values in all official documents of the College, including the student code of conduct.

Recommendations

- Immediately launch an initiative to agree upon form and fashion of discovering and articulating common community values. President Chopp should charter a group to lead this initiative.
- If and when the community accepts the core values, work to ensure they are ingrained into every facet of College life, such as college publications, admissions materials, the website, new student orientation, programming, residential life programming, among others.

Enhance Prevention Strategies

Clearly, the College's number one goal must be the prevention of sexual assault and harassment. We continue to believe that the College must expand its focus on establishing a prevention strategy this is cohesive, coordinated with other College-wide initiatives, and tailored to the unique experiences of Swarthmore College community. The College has done much in this area since we began our work in May 2013, including the launch of the on-line program for first-year students, and active partnerships with student groups to bring external voices to campus to address issues of sexual violence.

When we first visited campus in May 2013, two staff members were responsible for sexual and gender violence prevention efforts. Beth Kotarski, Director of Health Services, has led these efforts for the past two years. Last year, Patricia Fischette, a post-graduate clinical fellow in the counseling center, assisted her. Over the summer, Ms. Fischette assumed the role of interim Title IX Coordinator. Therefore, she will coordinate Title IX training, while Ms. Kotarski will continue to oversee prevention efforts, assisted by the newly hired advocate Nina Harris and supplemented by the efforts of other student affairs staff members. While this configuration is positive in that responsibility for prevention is spread across various areas of campus, it will be important to institute formal mechanisms for ensuring that messages are consistent and efforts are coordinated. We recommend that staff members involved in prevention meet on a regular basis as a group to share information and review each other's materials to ensure that messages and language are consistent and later efforts are building on, rather than duplicating, previous efforts. There should also be a defined mechanism for overseeing the "big picture," for example, assigning a staff member to serve in a coordinating role, periodic reviews of changes to specific efforts, etc.

Recommendations

- Create a coordinated and integrated primary prevention plan that consists of an ongoing sequence of educational efforts that build upon each other over the course of the year and throughout a student's college career. Although there is some overlap, we suggest that the planning process separate education and training that is primarily related to response (i.e., what happens after an assault) from prevention-related activities (i.e., designed to keep incidents from happening in the first place by preventing perpetration.). Specific steps that may be helpful:
 - a. Create an inventory of current or planned education and prevention efforts focused on primary prevention. This should describe each program in some detail, including its objectives/learning outcomes, audience, content, format and delivery mode, reach, evidence of effectiveness, and other key attributes.
 - b. Use this inventory and the results of the focus/framing process outlined above to identify gaps, ways to strengthen current efforts, and needed revisions to comply with best practices in the field and federal mandates. Specifically, review the overall portfolio of prevention and educational

efforts and the content of each effort to ensure that there is a focus on primary prevention (stopping perpetration) in addition to a focus on risk reduction and response.

- c. In addition, compare existing efforts to the requirements of the Campus SaVE Act (which will be in effect as of March, 2014) and identify any changes needed, including expanding the topics addressed, incorporating bystander intervention, ensuring that all employees and students receive both initial and ongoing educational efforts. Because of the substantial time investment required to create a “homegrown” bystander intervention training program, the College may wish to consider adopting one of the existing bystander intervention training programs that has been evaluated.
- Continue current efforts to increase the number of professional staff hours specifically dedicated to primary prevention by assigning responsibility for specific areas of prevention to multiple staff members as well as student peer leader groups.
 - Closely examine staffing in residential life to ensure sufficient capacity to provide prevention programming in the residential setting.
 - Ensure that staff members charged with prevention have sufficient time and institutional support to remain current in this rapidly evolving field, e.g., through conferences, trainings, webinars, library support or research assistance (i.e. to assist staff in reviewing current research literature).
 - Review any relevant findings from existing student surveys and use these results to inform prevention efforts. Conduct regular assessments of education and prevention activities and use this information to inform outreach, education, and prevention efforts.
 - The College should also compile existing data to inform their efforts. For example, aggregating descriptive information about reported incidents such as location, circumstances, and characteristics of offenders can help to guide efforts by highlighting problematic contexts or social groups. The College’s institutional research page lists other recent and upcoming surveys that may provide information that can inform educational efforts. For example, the 2012 Survey of New Students found that nearly two-thirds of students say that they are likely to serve in a peer-mentoring role at college, which suggests that peer mentors may be an appropriate group to train in sexual and relationship violence and stalking issues.
 - Assess the problems from a primary prevention standpoint and decide on the focus and framing for the College’s primary prevention efforts. Specifically,
 - a. Assess current norms, beliefs, values, and skills related to preventing perpetration and practicing positive and healthy behaviors through periodic climate survey.

- b. Ground discussions about behaviors in a larger discussion of campus culture, values, and intersecting issues.
- c. Connect knowledge to behaviors and skills by specifically infusing values into codes of conduct, policies, and prevention programming.
- d. Identify specific positive behaviors to promote (i.e., what TO do) and plan efforts to provide needed information and practice to perform those behaviors.
 - o Build prevention initiatives in an intentional sequence to introduce, practice, and reinforce the identified skills.
 - o Examine the social environment and in particular the events that the College identifies as posing a high risk for excessive alcohol consumption and other dangerous behaviors.
 - o Emphasize responsible and legal alcohol consumption in all programming. Expand resources available for dry programming, particularly events led by students.
 - o Provide regular updates to the community about its efforts to identify and address these issues. We heard feedback that students do not ready lengthy emails, so it may make sense to provide briefer updates more frequently, and to post this information in one place so that students can refer back to it.

Training/Education Based Recommendations

These recommendations primarily pertain to complying with Title IX guidance and the Campus SaVE Act requirements regarding responding to incidents. While ensuring that students understand what behavior is prohibited also helps to support prevention goals, it is important to recognize that this does not constitute primary prevention in and of itself.

- Ensure that training for new students, and especially affinity groups, includes information about both sexual harassment and sexual violence (and next year, relationship violence and stalking), and discusses where to report such concerns on campus and with law enforcement, specifies that those procedures are available and not mutually exclusive, clearly states where to receive confidential assistance, and outlines available support services.
- All trainings should be reviewed by the Title IX Coordinator to ensure they use OCR definitions of sexual harassment/sexual violence and are otherwise consistent with the DCL and other OCR guidance concerning sexual harassment and violence.
- Ensure all training programs also discuss the College's prohibition on retaliation and how such concerns would be addressed.

- Develop a mechanism for surveying the campus climate and in particular to assess the changes to Swarthmore’s policies, procedures, and reporting options. Include the areas related to response outlined in the University of Montana Resolution Agreement, specifically: (1) assess students’ attitudes and knowledge regarding sexual harassment, sexual assault, and retaliation; (2) gather information regarding students’ experience with sex discrimination while attending the College; (3) determine whether students know when and how to report such misconduct; (4) gauge students’ comfort level with reporting such misconduct; (5) identify any barriers to reporting; and (6) solicit student input on how the College can encourage students to report sexual harassment, sexual assault, and retaliation, and better respond to such reports. (The University of Montana Resolution Agreement also includes assessing outreach, education, and prevention efforts to identify which strategies are effective, which relates to prevention.) The College should use results from this surveys, take appropriate action to address climate issues related to sex-based harassment identified through the surveys.

Ensure Effective Response Systems and Services

One of the most important aspects of a comprehensive approach to addressing sexual misconduct is the College’s initial and on-going response to reported incidents. According to the April 4, 2011 Dear Colleague Letter, once an institution knows, or should reasonably know, about an incident of sexual harassment, it must respond to end the harassment, prevent its recurrence, and address its effects. The College should continue to enhance the credibility of its response system by ensuring: 1) campus community members are well aware of prohibited behaviors; the College’s response to these behaviors; and that the procedures regarding these incidents are widely distributed and easily accessible across the campus; 2) first responders are adequately equipped to assist and appropriately guide complainants when they choose to come forward; and 3) there are viable confidential and anonymous means of reporting. While the Interim Policy on Sexual Assault and Misconduct addresses 1 & 3 above, it is incumbent on the College to undertake aggressive actions to ensure the widest possible distribution of this information. This should include maintaining the Sexual Assault web resource page, publishing and distributing the information in printed form, where applicable, and actively educating campus community members about the procedures and resources available.

One of the most difficult challenges for any institution is ensuring that first responders (#2 above) are adequately trained and oriented to receiving complaints in a caring, respectful, and compliant manner. The College should continue to develop a “victim-centered” approach to first complaints recognizing that a complainant’s willingness and likelihood of continued participation in the College’s response system is often determined by the experience during a first report.

The keys to developing this “victim-centered” approach include ensuring the right people are selected to serve as first responders and that they receive on-going and continuous training on first response.

Another important aspect of the College’s response to reports of sexual misconduct is coordination across campus. Coordination with and between various departments, even at a smaller institution like Swarthmore, can be complicated. It is important that there is a clear delineation of roles and responsibilities among those departments that are primarily designated (or likely) to receive first reports, specifically the Dean of Students Office, Public Safety, the Violence Prevention Advocate and Educator, the Worth Health Services, or CAPS. To improve coordination among first responders, we recommend the College adopt the Sexual Assault Response Team (SART) model used in many cities and counties and increasingly being used in higher education. The SART would bring together the various departments and offices that respond to an incident to solidify relationships, clarify roles and responsibilities, and enhance coordination.

Recommendations

- Ensure widest possible dissemination of policies and procedures related to sexual misconduct and reporting options. Consider developing supplemental materials that clearly designate and publicize which offices and/or individuals provide complainant and respondent support functions, the scope of these services, and the confidentiality level of each resource. Provide these materials to faculty, staff, and administrators as part of training and teach supportive ways to refer individuals to these support services.
- Ensure information about confidential and anonymous reporting options is widely distributed to the campus community.
- Provide training to ensure that confidential resources understand the grievance procedures and can answer questions about them for potential complainants.
- Identify and train all sexual misconduct first responders on appropriate response to initial reports (recognizing the first response is different from investigations). At a minimum, first responders should receive some form of training at least once each semester.
- Ensure sexual misconduct investigators receive comprehensive and ongoing training, including, but not limited to, the following topics:
 - a. The role of use of alcohol and other drugs in sexual assault;
 - b. The investigatory and adjudication processes;
 - c. Victim trauma
- Ensure the College has an appropriate software system to track all reported incidents of sexual and gender violence, with robust reporting options and

coordination with Public Safety's records management system, for statistical reporting.

- Ensure the Title IX Coordinator reviews all training to ensure it uses OCR definitions of sexual harassment/sexual violence and is otherwise consistent with the DCL and other OCR guidance concerning sexual harassment and violence.

Sexual Assault and Misconduct Policies

The current Interim Sexual Assault and Harassment policy is intended to serve as a comprehensive document outlining all policies, procedures, and resources related to sexual misconduct. It does not currently modify grievance procedures specific to employees (faculty and staff). It is our understanding that the College is currently revising the policy to address these groups.

During our visit in September, several students raised concerns about the adjudication processes included in the Interim Policy and in past policies. There have also been ongoing conversations at the College about procedures, specifically related to the composition of hearing panels, internal/external adjudicators, and transcript notations, in particular. While there is clearly no "one size fits all" solution for the adjudication of sexual assault and harassment cases, we know that the processes must be firmly established and documented via widely distributed and accessible policies, consistent, and impartial, balancing the rights of the complainant and respondent. The Interim Policy outlines several options, including remedies-based resolution for some instances (as permitted and appropriate in line with best practices and the Dear Colleague Letter).

We believe it is in the best interest of complainants and respondents to offer several adjudicatory options, as long as the College works to eliminate actual and perceived conflicts of interests and potential bias, especially in the empanelment of hearing board members. Further, the College must ensure that panel members, the Student Conduct Administrator, or an external adjudicator receive recurring training on the unique issues involving sexual assault and harassment.

As noted beforehand, the Federal guidance regarding Title IX is rapidly evolving, so it is imperative for the College to remain vigilant about new guidelines and expectations from the Department of Education.

Recommendations

- Finalize the Interim Policy on Sexual Assault and Misconduct by the summer of 2014 for all campus constituencies.
- Ensure recurring and appropriate training for all adjudicators.
- Designate the Title IX Coordinator as the College officer responsible for the policy.
- Require an annual review of the final policy.

Campus SaVE Act Implementation

On March 7th, 2013, the President signed the Violence Against Women Reauthorization Act of 2013 (VAWA) (Pub. Law 113-4). Among other provisions, this law amended section 485(f) of the Higher Education Act of 1965, as amended (HEA), otherwise known as the Clery Act. These statutory changes require institutions to compile statistics for certain crimes that are reported to campus security authorities or local police agencies including incidents of sexual assault, domestic violence, dating violence, and stalking.

Additionally, institutions will be required to include certain policies, procedures, and programs pertaining to these crimes in their Annual Security Reports published in 2014.

Given these pending deadlines (March 2014), it is important for the College to begin now addressing the many policies, policy statements, and training requirements included in the amendment to the Clery Act. We have attached an Annual Security Report sample policy statement to use as a guide to implementing the new requirements.

Recommendations

- Immediately task the Clery Act Coordinating Committee with guiding the implementation of the Campus SaVE Act, noting that the College is currently required to make a good faith effort to comply with the changes and will be required to comply NLT March 2014.

Conclusion

The Swarthmore College community, including the administration and students, has embraced this opportunity to consider its culture, and how community values can impact issues related to sexual and gender violence. The College has also committed significant resources to enhancing its sexual harassment and assault systems, policies, and procedures. While it is impossible to prevent every instance of sexual violence and harassment, we believe the College is well on its way to implementing model approaches to addressing these very complex issues. In our view, excellence in this area is not a destination, but an ongoing process that requires constant vigilance and evolution, as promising practices emerge. We are confident that the College has the appropriate mindset, commitment, and infrastructure to reasonably prevent and respond to issues of sexual and gender violence. We applaud the College for its transparency and willingness to enthusiastically support change and serve as a leader in this area.



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