

Date: October 27, 1994
To: Professor Paul F. Duby, Chair, and members of the Senate Executive Committee
From: Martha M. Dore and Michael A. Cohen, Co-Chairs, and members of the Task Force on Sexual Assault Policy
RE: Report of the Senate Task Force on Sexual Assault Policy

Enclosed please find a report from the Task Force on Sexual Assault Policy per the mandate outlined in your memorandum dated February 25, 1994. According to this memorandum, the Task Force is required to present a detailed sexual assault policy to the Senate no later than January 1, 1995. To that end, we are submitting the enclosed document for preliminary review and discussion, first by members of the Senate Executive Committee at their November 3 meeting, and, with Executive Committee approval, by the full Senate on November 11.

As you will see, the Task Force report builds on the extensive previous work of the committee headed by Fred Catapano. It also incorporates input from many Deans, the Ombuds Officer, representatives of the General Counsel's office, and other individuals throughout the University community with significant investment in the equitable and judicious handling of the very serious issue of sexual misconduct and assault. These individuals took time to meet with members of the Task Force and provide us with the full benefit of their knowledge and experience with these matters.

We also heard, directly and indirectly, from students and others who had experienced sexual misconduct and assault firsthand. We learned from them how current University procedures are experienced by those who seek to use them and by those whose understandings or beliefs inhibit or prevent their use.

Task Force members also consulted with persons outside Columbia University who have studied the issue of sexual misconduct and assault in university settings. Finally, we benefitted greatly from the able assistance of Susan Cahn and others in the Senate Office who kept the Task Force supplied with documents from other Ivy League and comparable universities describing their policies and procedures regarding sexual misconduct and assault.

As reflected in our report, the majority of Task Force members believe that the addition of an investigatory panel model as an alternative to Dean's Discipline would represent a significant improvement to current procedures. However, at least one member believes equally strongly that an adversarial model including representation by outside legal counsel is the preferred alternative. He intends to present a minority report supporting his views to the full Senate at the point that our recommendations are ready for a vote. We would like, however, to move forward in presenting our report, which represents the views of the majority of Task Force members and, we believe, their constituencies, to the Senate Executive Committee and others for review and discussion.

Following is a synopsis of recommendations set forth in the Report of the Task Force on Sexual Assault Policy to be presented to the Senate of Columbia University.

Recommendation #1: That the University adopt a clear and concise definition of sexual misconduct and sexual assault, and that this definition be widely distributed and used to educate the community regarding appropriate sexual conduct. The following definition is proposed:

Sexual misconduct is non-consensual, intentional physical contact of a sexual nature such as unwelcome physical contact with a person's genitals, buttocks, or breasts. Sexual assault is that form of sexual misconduct which involves force, threat, physical intimidation, or advantage gained by the victim's mental or physical incapacity or impairment of which the perpetrator was aware or should have been aware, or by the young age of the victim.

Recommendation #2: The following enhanced procedures be adopted by the University for responding to sexual misconduct and assault:

(a) the Task Force recommends that the first point of contact for persons who believe they have been victims of sexual misconduct or assault and who are undergraduate or graduate students at Columbia/Barnard/Teachers College be trained, 24 hour on-call trained volunteer advocates affiliated with the Rape Crisis Center.

(b) the Task Force recommends that providing information and guidance regarding the various avenues available for pursuing complaints of sexual misconduct and assault be made a part of the role of the Ombuds officer and that this recourse be widely publicized within the University community.

(c) the Task Force recommends that mediation of sexual misconduct complaints through the Ombuds Office be a publicized option offered to those initiating such complaints. In cases where such mediation is elected, a written contract between the two parties to the complaint outlining rules for future interactions between them would be the only documentation and copies would be kept only by the complainant and the accused.

Recommendation #3: Development of specific procedures and training for hearing sexual misconduct through Dean's Discipline

The Task Force recommends that the Provost convene a working group of the Deans of Students of the College, the School of Engineering and Applied Science, the School of General Studies, as well as deans of students from Barnard and Teachers College, with consultation from the General Counsel's Office, to develop a procedures manual for handling cases of sexual misconduct or assault through Dean's Discipline, based on their cumulative wisdom and experience. This manual would include provisions for annual training on the procedures and on issues related to sexual misconduct and sexual assault for all those who may be involved in

hearing such cases through Dean's Discipline. This manual would be available to all students in the university through the reserve desk in Butler Library.

Recommendation #4: Procedures for notifying the university community of disposition of complaints of sexual misconduct

The Task Force on Sexual Assault Policy recommends that the University publish in the Columbia Record and Columbia Spectator each semester a summary of the dispositions of complaints of sexual misconduct or assault.

Part II: Recommendations requiring action by the Trustees of the University

Recommendation #5: Jurisdiction of the university's sexual assault policy

It is recommended that procedures for responding to complaints of sexual misconduct and sexual assault as defined in this document cover all undergraduate and graduate students, enrolled full time or part time, in the schools and departments of Columbia University and its affiliate institutions Barnard College and Teachers College.

Recommendation #6: Establishment of an alternative disciplinary procedure to Dean's Discipline

The Task Force recommends that a system of University-wide hearing panels be instituted in addition to Dean's Discipline for hearing cases of sexual misconduct or assault. The Task Force Report describes in detail the following components of such a system:

- a. procedures for constituting University-wide hearing panels
- b. procedures for bringing complaints of sexual misconduct or assault to a hearing panel
- c. initial steps in implementing the hearing panel process
- d. the structure of hearing panel proceedings
- e. management of disposition and disciplinary recommendations
- f. procedures for appealing the outcome of a hearing panel
- g. procedures in cases where court proceedings or a criminal investigation involving the same conduct are in progress

REPORT OF THE UNIVERSITY TASK FORCE ON SEXUAL ASSAULT POLICY

Proposals for handling allegations of sexual misconduct and assault within the University community

Introduction

In the following document the University Task Force on Sexual Assault Policy presents its recommendations for a revised university-wide approach to handling allegations of sexual misconduct and assault involving undergraduate and graduate students in the university community. There are two types of recommendations set forth here, one requiring action by the University Trustees after passage by the University Senate and the other requiring administrative action in response to direction from the Senate.

In Part I of this document the Task Force presents recommendations for strengthening existing university structures to make them more responsive to persons who believe they have been recipients of sexual misconduct. The Task Force believes that these recommendations can be carried out through the administrative decision-making process without Trustees' review. Part II of this document puts forth Task Force recommendations for an alternative university-wide procedure (in addition to Dean's Discipline) for hearing complaints of sexual misconduct brought against student members of the university community. This structure would

supplement the enhanced structures recommended in Part I. Part II recommendations would require review and adoption by the Trustees of the University.

In Part I, in order to provide a context for its recommended procedures to address complaints of sexual misconduct, the Task Force proposes a revised definition of sexual misconduct and sexual assault that describes unacceptable sexual conduct in a university community. This definition takes into account New York State law as well as definitions in common use in comparable institutions of higher learning, such as Harvard, Princeton, Brown, and others. It recognizes a continuum of inappropriate sexual behavior, ranging from the use of physical force or threat of bodily harm to less violent but still unacceptable conduct. Task Force members believe that a clear, concise definition of unacceptable sexual behavior that can be made part of orientation to university life for incoming students can go a long way to discouraging sexual misconduct in the university community.

In Part I the Task Force also recommends enhanced supports within the university for those who feel they have been recipients of sexual misconduct or sexual assault. These recommendations build on services currently provided by the Rape Crisis Center and the Ombuds Officer. They reflect Task Force members' belief that there is substantial need for a clearer, more accessible and supportive process within the University community for responding

to persons who may have been victims of sexual misconduct or sexual assault.

Finally, also in Part I, the Task Force recommends specific mechanisms for strengthening existing procedures for hearing complaints involving sexual misconduct and sexual assault. Again, this aspect of the proposal builds on current structures, notably the Ombuds Office and Dean's Discipline. After much research and deliberation, the Task Force concluded that a substantial portion of student concern over current disciplinary procedures stems from inadequate provision in current University procedures for the special requirements of a disciplinary hearing on sexual misconduct. These special requirements result from social mores and strictures surrounding interpersonal conduct of a sexual nature that place a unique onus on all parties to complaints of sexual misconduct as well as on those hearing such complaints.

In Part II of this document, the Task Force proposes the establishment of an alternative structure for hearing complaints of sexual misconduct, a university-wide Hearing Panel, similar to those in use in other Ivy League and comparable institutions. After hearing concerns expressed by students, faculty and administrators, members of the Task Force have come to believe that students who are unable or unwilling to use currently existing disciplinary structures should have an available alternative for bringing forward complaints of sexual misconduct. The alternative

we recommend is the investigatory panel model in widespread use in educational settings. Our collective research strongly indicates that this is the preferable structure for a University community. However, at least one Task Force member believes that an adversarial model that includes active legal representation is preferable and will present that position in a minority report to the Senate.

Specific recommendations regarding education of the university community on sexual misconduct and sexual assault are not part of this report as it is our understanding that another committee is drafting such recommendations. However, the Task Force would like to underscore its belief in the importance of infusing information regarding appropriate sexual conduct as well as information on available recourse for complaints throughout student orientation as well as making this information readily available to all students on an ongoing basis. In our deliberations on this topic we have had occasion to hear several accounts of sexual misconduct and assault involving students from other cultures both as perpetrators and as victims. International students may be particularly unprepared to handle differing cultural norms regarding sexual conduct. Therefore, we think it as important to inform graduate as well as undergraduate students in this aspect of university community life.

We would also like to note our concern about the contribution

of alcohol consumption to sexual misconduct and assault as a prevailing problem on college campuses. This highlights the importance of alcohol awareness education in addressing sexual misconduct and assault as well.

Part I: Recommendations for administrative action

The Task Force on Sexual Assault Policy makes the following recommendations for changes in the university's present approach to the problem of sexual misconduct and assault. These changes can be accomplished through administrative action without action by the Trustees of the University.

Recommendation #1: That the University adopt a clear and concise definition of sexual misconduct and assault, and that this definition be widely distributed and used to educate the community regarding appropriate sexual conduct.

Sexual misconduct encompasses a range of non-consensual sexual activity, the most extreme form of which is sexual assault. The Task Force on Sexual Assault Policy has reviewed a number of definitions of sexual misconduct, including those currently in use in other universities and those recommended by scholars, attorneys, and law enforcement personnel. Definitions of sexual assault currently set forth in FACETS and in the University's brochures on campus safety and security were also reviewed. Task Force members

have concluded that the following definition is clear and unambiguous and we are recommending its adoption and use as the focus of student orientation and education throughout the university community:

Sexual misconduct is non-consensual, intentional physical contact of a sexual nature such as unwelcome physical contact with a person's genitals, buttocks, or breasts. Sexual assault is that form of sexual misconduct which involves force, threat, physical intimidation, or advantage gained by the victim's mental or physical incapacity or impairment of which the perpetrator was aware or should have been aware, or by the young age of the victim.

The Task Force further recommends that any student educational materials developed using this definition of sexual misconduct include specific vignettes describing behavior and situations relevant to a university setting that would breach the boundaries of appropriate sexual conduct. For example, materials reviewed by the Task Force suggest that alcohol plays a major role in "date rape." Educational materials should make clear that a person under the influence of alcohol may be so impaired as to lack capacity to consent to sexual intercourse and engaging in sexual contact with such a person may place an individual at risk of charges of sexual misconduct.

Recommendation #2: Enhanced procedures within the university for responding to sexual misconduct

In considering what procedures might be most effective in handling situations of sexual misconduct, including sexual assault, the Task Force recognizes that valuable structures are currently in place within the university which can be strengthened to provide a more supportive response to those who may be victims of such misconduct. Current structures to be enhanced include the Rape Crisis Center and the Ombuds Office.

The Rape Crisis Center

Individuals who have experienced sexual misconduct, especially sexual assault, are nearly always in a state of psychological crisis as a result. Research literature on the psychology of sexual assault victims describes a trauma syndrome including psychic numbness, hysteria, shock, overwhelming fear, and pervasive anxiety. According to this literature, it is critically important to have someone knowledgeable about the trauma reaction to sexual assault available to the victim immediately. Many hospital emergency rooms that handle sexual assault victims, like St. Lukes Hospital, have such persons on site or on call 24 hours a day.

The Columbia-Barnard Rape Crisis Center, which provides crisis services to sexual assault victims, is open only from 7 p.m. until

11 p.m. However research shows that most sexual assaults take place on weekends in the late evening or early morning hours after parties have broken up or bars have closed. When the Rape Crisis Center is closed, victims can go to dorm personnel, friends, campus security, or a hospital--where they may or may not receive attention from someone trained in responding to sexual assault trauma. (Facets instructs students to "Contact Security, the Police Department, your Dean's Office, the Columbia-Barnard Rape Crisis Center, a medical treatment facility, or any trusted friend, adviser or faculty member as soon as you can"). For someone in a state of psychological crisis, the psychological organization required to get to a hospital or to discuss an intimate situation with an unknown older male security officer is likely to be lacking.

Therefore, the task force recommends that the first point of contact for persons who believe they have been victims of sexual misconduct or assault and who are undergraduate or graduate students at Columbia/Barnard/Teachers College be trained, 24 hour on-call volunteer advocates affiliated with the Rape Crisis Center.

These advocates should be on rotating 24-hour call, summoned by beeper system at any hour of the day or night. Advocates should include faculty and administrators who live near campus, as well as students in the university community. Advocates would proceed immediately to a place indicated by the sexual assault victim such

as a dorm room and would spend time reassuring the victim and educating him/her about the various avenues of recourse for dealing with the immediate situation. This volunteer advocate system would be modeled on that currently operated by the St. Lukes/Roosevelt Rape Crisis Center.

If the victim chooses to go to a hospital emergency room--and every rape victim should be strongly encouraged to do so--the advocate would accompany him/her to the hospital and stay during the procedure (students have told us that they refuse to go to St. Luke's alone even when quite ill). If the student chooses to file a police report or notify campus security, the advocate would give guidance to that process as well. Finally, the advocate would supply the victim with written materials stating the procedures for pursuing a complaint on campus and through the Manhattan District Attorney's Office and for obtaining ongoing counseling through the Student Health service or Rape Crisis Center. The advocate would also be available to accompany the victim through the complaint process, if he/she chose to pursue a university mediation or disciplinary process. The advocate would check back with the victim every few days over a period of several weeks to see how she/he was coping and whether further help was needed.

The Task Force recognizes that this recommendation has budgetary implications, requiring an as-yet-undetermined outlay of funds for training and coordination of the volunteer advocates as

well as for a paging system. However, it is our belief that the expenses incurred in operating such a program would be minimal when compared to (1) the reassurance it would provide students and their parents of the University's concern about these issues, and (2) the comfort and support that would be available to persons in crisis because of sexual misconduct.

The Ombuds Office

For persons who feel they have been victims of sexual misconduct but who do not require immediate crisis intervention, an alternative is to go to the Ombuds Officer for support and direction in resolving complaints or pursuing disciplinary action within the University system. The Ombuds Officer could provide information about various options for pursuing a university-level complaint. These options would include: (a) mediation by the Ombuds Officer; (b) Dean's Discipline; (c) a specially-constituted University hearing panel. The Ombuds Officer would describe each of these options to the potential complainant and help him/her select the one most appropriate to the situation. For individuals who elect to pursue complaints through the University-wide hearing panel system proposed below, the Ombuds Officer would play a role in initiating the hearing process as described later in this report.

The Task Force recommends that providing information and

guidance regarding the various avenues available for pursuing complaints of sexual misconduct and assault be made a part of the role of the Ombuds officer and that this recourse be widely publicized within the University community.

Mediation through the Ombuds Office

A currently available mechanism for addressing interpersonal conflicts is mediation through the University Ombuds Officer. The goal of such mediation is to enable complainant and accused to reach some common understanding of the event that has brought about the complaint and some agreement regarding future relations and behaviors between them.

As is current practice in other forms of interpersonal conflict, the Ombuds Officer serves as a neutral party, helping both individuals involved to tell their stories and to listen to one another. No written records are kept of this process which is covered under rules of confidentiality in most circumstances.

The Task Force believes that mediation through the Ombuds Office should be a designated option for handling complaints of sexual misconduct not involving the use of force.

Therefore, the Task Force recommends that mediation of sexual misconduct complaints through the Ombuds Office be a publicized

option offered to those initiating such complaints. In cases where such mediation is elected, a written contract between the two parties to the complaint outlining rules for future interactions between them would be the only documentation and copies would be kept only by the complainant and the accused.

If, after the mediation process, the complainant felt further action was required, the Ombuds Officer could explore with her/him other avenues of recourse, including Dean's Discipline, a hearing before a specially convened University Hearing Panel, or filing criminal charges. The Ombuds Officer would outline the procedures involved and give information on necessary steps. There would, however, be no effort to influence the choice of the complainant as to how to proceed.

Recommendation #3: Development of specific procedures and training for hearing sexual misconduct through Dean's Discipline

According to a 6/29/90 draft document entitled **Model "Dean's Discipline" Procedures**, made available to the Task Force, a Dean's Discipline hearing is held before at least two deans or members of their staff. It is a fact-finding, non-adversarial proceeding. There is no formal cross-examination and no attorneys are present. The accused is informed of the allegations and the evidence against him/her and asked to respond. The accused may offer his/her own evidence, including supporting witnesses, at this time. The

complainant and accused are notified in writing of the findings of the hearing officers. Available penalties include censure, probation, suspension, and dismissal.

The accused may appeal the findings of a Dean's Disciplinary hearing to the Dean of his/her school. The appeal must be made in writing within 7 days of notification of the findings and must state the grounds for the appeal. In hearing an appeal, the Dean of the School normally relies on written records of the disciplinary hearing and does not conduct a new hearing. The focus is on whether the hearing findings and the penalty imposed are reasonable under the circumstances of the case.

The Task Force members strongly believe that Dean's Discipline should remain one option for handling cases of sexual misconduct or assault at the university. However, we are concerned that there are no specific guidelines, written or otherwise, for carrying out a Dean's disciplinary hearing on sexual misconduct or assault charges. According to Deans of Students interviewed by the Task Force, some schools/departments within the university have occasion to handle several of these complaints each year and therefore have well-structured procedures and well-trained personnel. Other schools/departments only rarely handle sexual misconduct complaints through Dean's Discipline and are ill-prepared to hear such cases. Moreover, deans and other administrators change over time and without written procedures each new administrator must establish a

process all over again. Many in the university have strongly recommended to this Task Force that there be uniform written procedures for handling sexual misconduct and assault cases through Dean's Discipline and that those persons in each school who are responsible for hearing such cases receive special training on an annual basis.

Therefore, the Task Force recommends that the Provost convene a working group of the Deans of Students of the College, the School of Engineering and Applied Science, the School of General Studies, as well as deans of students from Barnard and Teachers College, with consultation from the General Counsel's Office, to develop a procedures manual for handling cases of sexual misconduct or assault through Dean's Discipline, based on their cumulative wisdom and experience. This manual would include provisions for annual training on the procedures and on issues related to sexual misconduct and sexual assault for all those who may be involved in hearing such cases through Dean's Discipline. This manual would be available to all students in the university through the reserve desk in Butler Library.

Recommendation #4: Procedures for notifying the university community of disposition of complaints of sexual misconduct

The Task Force on Sexual Assault Policy recommends that the University publish in the Columbia Record and Columbia Spectator

each semester a summary of the dispositions of complaints of sexual misconduct or assault.

Publication should be done in a manner that protects the identities of the parties involved while assuring members of the University community that such complaints are taken seriously and are resolved in a timely manner. It would also serve to clarify and further educate constituents regarding inappropriate sexual behavior in a university setting.

Part II: Recommendations requiring action by the Trustees of the University

Recommendation #5: Jurisdiction of the university's sexual assault policy

It is recommended that procedures for responding to complaints of sexual misconduct and sexual assault as defined in this document cover all undergraduate and graduate students, enrolled full time or part time, in the schools and departments of Columbia University and its affiliate institutions Barnard College and Teachers College.

It is recognized that participation by Barnard College and Teachers College would require approval of their Trustees if this proposal is enacted by the Senate and Trustees of Columbia

University. The proposed procedures would cover incidents of sexual misconduct or assault in which Columbia, Barnard, or Teachers College students are involved as the accused. Complaints may be brought by students or nonstudents.

Recommendation #6: Alternative disciplinary procedure

The Task Force recommends that a system of University-wide hearing panels as described below be instituted in addition to Dean's Discipline for hearing cases of sexual misconduct or assault.

Such a procedure would provide an alternative for students who are unable or unwilling to use Dean's Discipline. We have heard from many students that they have been, or would be, hesitant to pursue complaints of sexual misconduct/assault through Dean's Discipline because of discomfort at disclosing intimate details of their personal lives to individuals who are responsible for their academic futures. Also, students have varying relationships with their academic deans; some are very positive and some not so positive. Providing another avenue for pursuing sexual assault complaints would provide an alternative for students who have less than positive or comfortable relations with their school or department deans. Finally, as many of the academic deans at Columbia are men, young women may have a particularly difficult time discussing material of an intimate nature with them.

Some deans themselves have expressed to the Task Force a need for a university-wide procedure for handling cases of sexual misconduct or assault. There is concern that, when one or the other of the parties to the complaint is well known in a school or department, it may lessen the chance of a fair hearing through Dean's Discipline. There is also concern about issues of fairness when the complainant and the accused are from different schools or departments. Also, deans have said that, while they are quite knowledgeable about the academic concerns presented to Dean's Discipline, they are less familiar with the issues that emerge in adjudicating sexual misconduct or assault cases.

As a result of the above concerns about the viability of Dean's Discipline in handling some sexual misconduct or assault complaints, the Task Force recommends the following actions to the Senate and Trustees:

1. A system of University-wide hearing panels should be established according to the following guidelines:

a. A pool of individuals to compose these panels would be constituted by the Senate Executive Committee from persons nominated by the Student Affairs Committee (student nominees), the Faculty Affairs Committee (faculty nominees), and the Provost's Office (dean nominees).

b. The Hearing Panel Pool would be composed of 6 students (3 graduate and 3 undergraduate students), 6 faculty members (2

from the College, 1 from Barnard, 1 from Teachers College, 1 from Health Sciences, and 1 from the other graduate and professional schools), and 6 deans (distributed in proportion similar to faculty).

c. Nominees to the Hearing Panel Pool need not be Senate members; however, they must agree to make themselves available for special training on issues involved in sexual misconduct and assault (perhaps in conjunction with the training developed for those involved in Dean's Discipline) and to hear sexual assault cases for a two-year period.

d. Three person hearing panels, composed of a student, faculty member, and dean from the pool described above, would hear sexual misconduct and assault complaints on a rotating basis. Specific panel membership would reflect the University status of the accused, i.e., a graduate student, faculty member, and dean from a graduate or professional school would hear cases involving graduate students while an undergraduate student, faculty member and dean in the College or from Barnard would serve on panels hearing cases involving undergraduates.

e. It is intended that a single Hearing Panel member would hear only a few cases each year. If demand exceeds this level, the number of pool members should be increased accordingly.

f. Any member of the Hearing Panel pool who has a prior association with either party to a complaint would be disqualified from serving on that particular panel.

2. Procedures for bringing complaints of sexual misconduct or assault to a hearing panel would be as follows:

a. a formal complaint of sexual misconduct or assault is made in person or in writing to the Dean of Students' office in his/her school or department, or to the University Ombuds Officer, and a request for a hearing panel accompanies this complaint.

b. request for a panel hearing must take place within 12 months of the alleged incident of sexual misconduct or assault.

c. if complainant initiates his/her complaint in person, he/she must submit the complaint in writing with a formal request for a hearing panel before the Dean of Students or Ombuds Office can move forward on the complaint.

d. once the Dean of Students or Ombuds Officer has received the complaint in writing with a formal request for a hearing panel, he or she will notify the presiding officer of the Senate Executive Committee who initiates the empanelment procedure outlined above.

e. all written materials regarding the alleged incident of sexual misconduct or assault submitted by the complainant to the Dean of Students or Ombuds Officer would be forwarded with the formal hearing request to the Senate Executive Committee officer to be given, in turn, to the Hearing Panel.

3. Initial steps in the hearing panel process:

a. an organizational meeting of a newly constituted

Hearing Panel would take place within 10 working days (two weeks) of receipt of the request from the Dean of Students or Ombuds Officer and the complainant's written complaint.

b. at its organizational meeting, the Hearing Panel would review the written complaint and designate among themselves a chair who would then carry responsibility for:

(1) notifying the accused in writing of the filing of a complaint of sexual misconduct or assault against him/her, enclosing a copy of the complaint and asking for a written response to the accusations including names of any persons the accused believes could support her or his version of the alleged incident.

(2) soliciting written statements from any witnesses to the events surrounding the alleged sexual misconduct or assault designated by either party to the complaint;

(3) scheduling a hearing within one month with the parties to the complaint and supporting witnesses.

(4) sending a standard form letter to both parties to the complaint outlining the rules and regulations governing the hearing panel process as well as setting standards for interpersonal conduct between the two parties while awaiting the outcome of the hearing process.

4. Hearing panel proceedings would be structured as follows:

a. complainant and accused may each be accompanied by an adviser of his/her own choosing to the Hearing Panel meeting for support and consultation. This adviser may not directly

participate in the proceedings in any way, such as questioning of witnesses or making statements on behalf of his/her advisee. In some instances, complainant or accused may wish to have an attorney present in this role. In most cases, the attorney would function as any other adviser, offering advice and counsel to complainant or accused, but acting as an observer to the proceedings only. In cases where criminal charges have been or may be filed, the Hearing Panel may, at this discretion, permit an accompanying attorney to submit a written statement to the panel.

b. hearing panel meetings will be closed to those not a party to the complaint, their accompanying individuals, and their designated witnesses. As in Dean's Discipline, all proceedings will be kept strictly confidential. All those present during the hearing will be asked to sign a Statement of Confidentiality, agreeing not to discuss the proceedings with others in the community.

c. with the chair of the panel directing the proceedings, panel members may question both parties to the complaint as well as their witnesses directly. There will be no direct verbal interaction between the complainant and accused at the hearing, although both will be present to hear the other's testimony and may submit questions to the panel to be directed to the opposing party in response. In unusual situations in which the complainant has expressed fear for his/her physical safety in the presence of the accused, arrangements would be made for closed circuit television testimony by the complainant from another room.

d. hearing panel proceedings will be tape recorded for use in the event of review by the University President or appeal by the accused. These tapes will be kept in a locked vault in Low Library and destroyed after all appeals and criminal proceedings have been completed and after the accused has graduated or otherwise left the University on a permanent basis.

e. the standard of proof to be used by the panel in determining if sexual misconduct or assault has taken place is whether clear and convincing evidence supports the complainant's claim. This means that the evidence submitted to the panel makes it highly probable that what the complainant claims is what actually happened.

5. Disposition and disciplinary recommendations by the panel should be structured as follows:

a. if a majority (two out of three) of hearing panel members determine that a complaint is founded on the basis of clear and convincing evidence, the panel may ask the complainant to make a "victim's impact statement" describing how the offense has affected his/her life, including recommendations for the type of disciplinary action he/she would wish to see taken. This statement would be given due consideration in panel deliberations regarding appropriate disciplinary action against the accused.

b. available disciplinary actions would include the same range of options now available to Dean's Discipline: (1) immediate

expulsion without possibility of readmission; (2) suspension for a specified period of time; (3) required withdrawal for stipulated period with provision for counseling, formal apology, community service, or other form of restitution; (4) continued enrollment with provision for counseling, formal apology, community service, or other form of restitution. All forms of discipline may or may not include formal notation on a transcript.

c. a decision must be rendered by the hearing panel within 10 working days (two weeks) following the hearing.

d. both parties will be notified in writing of the panel's findings, including disciplinary recommendations, immediately after a decision is rendered. A written statement of the disposition and disciplinary recommendations will be forwarded to the Office of the President of the University and to the accused's Dean for implementation.

e. the President of the University may review and set aside a hearing panel disposition and recommendations at his/her discretion. If such action is taken, the President will meet with hearing panel members in a confidential, closed door session to discuss his/her reasons for this action.

6. Procedures for appealing the outcome of a hearing panel:

a. procedures for appeal of the panel's decision would be shared in writing with both parties at notification of the hearing outcome.

b. if the accused wishes to appeal the panel's decision, he or she must inform the Chair of the Senate Executive Committee in writing within 10 working days (two weeks) of the Hearing Panel's written notification of its findings and disciplinary recommendations.

c. The Senate Executive Committee will constitute a second, entirely new, hearing panel which will review the tapes of the original hearing and, as in Dean's Discipline, decide on the basis of whether the first panel's findings and disciplinary recommendations were reasonable under all of the circumstances of the case. Under most circumstances the second panel will not hear new testimony or consider new evidence but will consider only issues of fairness regarding process and outcome of the first hearing.

7. Procedures in cases where court proceedings or a criminal investigation involving the same conduct are in progress:

a. in cases in which the complainant also files a civil or criminal complaint, or the accused is under investigation or accused of a criminal offense involving the same conduct, University disciplinary proceedings (including Dean's Discipline) are customarily suspended until the matter is resolved in the judicial system.

b. procedures currently available to protect the complainant from the accused include changing housing and class

arrangements to minimize physical contact. Complainant may initiate such changes by contacting his/her Dean of Students.

c. at complainant's written request, the accused's Dean of Students may issue a letter to the accused outlining behaviors that he/she is not to engage in in relation to the complainant with provisions for immediate suspension if these prohibitions are violated. Such prohibitions could include physical or verbal contact by accused or those acting on his/her behalf. A copy of this letter would also be sent to the complainant.

d. in cases in which there is concern that the safety of the complainant or the University community cannot be assured through these means, the Dean of the College or of the graduate/professional school in which the accused is enrolled can request that the accused voluntarily withdraw or suspend him/her without prejudice pending the outcome of legal proceedings against him/her.

Current Members of the Senate Task Force on Sexual Assault Policy

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