Exb. 4

Adopted by Senate February 25, 2000, with amended definition to come

February 22, 2000

To: The University Senate

Subject: Resolutions with Respect to the University Sexual Misconduct Policy and Procedure

The Revised Report of the Task Force was submitted to the Senate on December 17. On the Senate floor, and in private communications subsequently, the Task Force received comments and suggestions with respect to certain portions of the Report. The Report itself has not been revised since it represents the deliberations and conclusions of the Task Force after eighteen months of meetings, and provides the background to the Resolutions which are presented here. However, certain of the suggestions have been incorporated into the Resolutions.

Specifically, the arrangement whereby the specially trained dean of students in schools attended by both students could meet with panelists in advance has been removed, although the Dean of the School may consult with the panel after an appeal has been filed. Additionally, many of the descriptive portions of the Report with respect to the Disciplinary Procedure for Sexual Misconduct have been incorporated into the procedure itself. Finally, the description of the qualifications for the new position has been modified to permit additional flexibility in the selection of candidates, and a deadline for the appointment has been incorporated into the Resolutions.

The attached version incorporates certain changes recommended by the Executive Committee and others, and adopted by the Task Force on February 21.

The Task Force on Sexual Misconduct

Resolution I

RESOLUTION TO CONTINUE THE UNIVERSITY POLICY ON SEXUAL MISCONDUCT.

WHEREAS, the physical and emotional well-being of all students in the Columbia University community is of utmost concern, and

WHEREAS, insuring mutual responsibility for this well-being requires that standards of sexual conduct be recognized and maintained by members of the Columbia University community, and

WHEREAS, the University Senate passed a Resolution in April 1995, defining sexual misconduct and establishing that sexual misconduct would not be tolerated on campus, and

WHEREAS, the University Senate has reviewed the Revised Report of the Executive Committee Task Force and accepts its recommendation that the University policy be continued,

THEREFORE, BE IT RESOLVED, that the University continue to define sexual misconduct as in the 1995 Senate Resolution, namely:

Sexual misconduct is non-consensual, intentional physical conduct of a sexual nature, such as unwelcome physical contact with a person's genitals, buttocks or breasts. Lack of consent may be inferred from the use of 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.

BE IT FURTHER RESOLVED that this conduct which meets the definition as stated herein is expressly prohibited by University policy, and that violations of this policy shall subject violators to disciplinary process.

Proponent: Task Force of the Executive Committee

Resolution II

RESOLUTION TO IMPROVE EDUCATION AND TRAINING ABOUT AND PREVENTION OF SEXUAL MISCONDUCT, AND OVERSIGHT OF THE SEXUAL MISCONDUCT POLICY.

WHEREAS, it is important to spread awareness and information throughout the University campus regarding appropriate sexual conduct and about the availability of resources and mechanisms for redress of complaints, and

WHEREAS, the abuse of alcohol is frequently involved in occurrences of sexual misconduct, it is important that any education on the issue of sexual misconduct include education about the responsible use of alcohol, and

WHEREAS, there exists the President's Advisory Committee on Campus Security, representing students, faculty and administrators, which is charged by law with responsibility 'to review current campus security policies and procedures and make recommendations for their improvement', including policies on sexual assault, and

WHEREAS, students and others have expressed concerns that insufficient information is available on these matters, and

WHEREAS, the Senate Task Force on Sexual Misconduct recommends continuing oversight and evaluation of the University's Disciplinary Procedure for Sexual Misconduct, and

WHEREAS, because of the close relationship among the University, Barnard College and Teachers College, and the academic and social integration of the student bodies of these institutions, there is a need for coordination of efforts with respect to education and information about sexual misconduct, although the legal obligations of each institution with respect to security, discipline and the compilation of annual crime statistics are separate, and

WHEREAS, students have expressed concern that the compilation of statistics with respect to reporting incidents of crimes on campus is not as well-understood or as accurate as possible, and

WHEREAS, the membership of the President's Advisory Committee on Campus Security is established by statute and does not necessarily include those administrators having expertise in issues of sexual assault nor members of affiliated institutions,

THEREFORE, BE IT RESOLVED that the President's Advisory Committee on Security establish a standing subcommittee composed of its membership and others, including administrators *ex officio* and representatives of affiliated institutions demonstrating an interest in the work of the subcommittee, including students, to evaluate methods of educating and informing students about the University's Policy on Sexual Misconduct, the availability of resources and appropriate standards of behavior with respect to sexual conduct, and about the responsible use of alcohol. This subcommittee should report back to the Advisory Committee with recommendations for improvements in education and information on an annual basis.

BE IT FURTHER RESOLVED that the President's Advisory Committee on Campus Security establish a second standing subcommittee of its membership and others, including administrators *ex officio* and representatives of affiliated institutions demonstrating an interest in the work of the subcommittee, including students, to review, in confidence, all reports of hearing panels and appeals, and to assess the effectiveness of the Disciplinary Procedure, the training of the hearing panelists and any other matters with respect to the conduct of the disciplinary process in complaints of sexual misconduct.

BE IT FURTHER RESOLVED that the President's Advisory Committee on Campus Security establish a third standing subcommittee of its membership and representatives of the counterpart committees at affiliated institutions, including students, to review any issues of statistical reporting, education with respect to sexual misconduct, discipline involving members of more than one institution and any other matter pertaining to sexual misconduct of interest to more than one campus.

BE IT FURTHER RESOLVED that the President's Advisory Committee on Security review the method(s) of the compilation of statistics on the occurrence of reportable crimes on campus and in other areas as prescribed by statute, and make recommendations for improving the accuracy and completeness of these statistics.

Proponent: Task Force of the Executive Committee

Resolution III

RESOLUTION TO CREATE A NEW FULL-TIME POSITION HAVING RESPONSIBILITY TO CARRY OUT THE UNIVERSITY POLICY ON SEXUAL MISCONDUCT, TO EDUCATE STUDENTS AND OTHERS ABOUT THE UNIVERSITY POLICY, ABOUT THE EXISTENCE OF RESOURCES FOR COUNSELING AND ABOUT DISCIPLINARY PROCEDURES.

WHEREAS the Revised Report of the Senate Task Force on Sexual Misconduct recommends greatly expanded efforts to increase information and awareness around issues of sexual assault, and

WHEREAS the Revised Report of the Senate Task Force on Sexual Misconduct recommends extensive training of all panelists participating in disciplinary hearings, and of other student affairs administrators on campus, and

WHEREAS the recommendations of the Task Force will require ongoing administration of the Disciplinary Procedure for Sexual Misconduct, and

WHEREAS the resources to perform these functions should have a common location for accessibility for all members of the Columbia community, and

WHEREAS the Revised Report of the Senate Task Force on Sexual Misconduct recommends that the collection of statistics of occurrences of sexual misconduct for purposes of federal reporting be performed by the same office having responsibility for education and administration of the University Policy,

THEREFORE, BE IT RESOLVED that the University establish a new full-time position with the principal responsibility of coordinating and performing these functions, which position should be located within the University Office of Student Services and should provide services for all University officers and students at every University location, and for any University affiliates who elect to participate in the University Policy and Procedure. This position should be supported by adequate resources to perform its mandate.

BE IT FURTHER RESOLVED that the search for an appropriately credentialed individual, having training and work experience in the area of sexual misconduct on University campuses, be commenced immediately so that the position can be filled by the beginning of the next fiscal year in order to be available to provide services by the start of First Year Orientation for all schools. Until the proposed position is filled, the Vice President, Student Affairs in conjunction with the Chair of the President's Advisory

Committee on Campus Security should appoint an appropriate administrator to carry out the responsibilities of the position, and to coordinate the recruitment of a candidate.

Proponent: Task Force of the Executive Committee

Resolution IV

RESOLUTION TO PROVIDE ALTERNATIVE METHODS OF COMPLAINT RESOLUTION FOR STUDENTS EXPERIENCING AN ALLEGED INCIDENT OF SEXUAL MISCONDUCT AND TO PROVIDE INFORMATION ABOUT COMPLAINT PROCEDURES.

WHEREAS it is important for any student who wishes to bring a complaint of sexual misconduct against another student to feel confident in the impartiality and appropriateness of the decision-making process, and

WHEREAS instances of sexual misconduct can vary in seriousness and therefore different methods of resolution may be appropriate, and

WHEREAS students and others have expressed concern about the effectiveness and appropriateness of the present Alternative Disciplinary Procedure for sexual misconduct,

THEREFORE, BE IT RESOLVED that students who have allegedly experienced an incident of sexual misconduct and who wish to bring a complaint of a violation of the University's Policy on Sexual Misconduct against another student have the options of proceeding through Dean's Discipline according to the normal procedures of the school attended by the student who is accused of the violation, the proposed Disciplinary Procedure for Sexual Misconduct, or mediation through any accredited mediator affiliated with the University.

BE IT FURTHER RESOLVED that in order for a student considering making a complaint to make an informed choice, that the Office of the Dean of Students in each school maintain a compilation of a description of the Disciplinary Procedure for Sexual Misconduct and a copy of the description of the dean's disciplinary procedure in every school of the University, and make it easily available to all students.

BE IT FURTHER RESOLVED that a complaining student's choice to pursue redress through the criminal justice system will not preclude that student from pursuing University remedies. However, in such a case, no internal University disciplinary procedure shall go forward until the criminal justice process is complete. This resolution shall in no way limit the powers of any Dean to take any summary action with respect to the matter that he or she deems appropriate.

Proponent: Task Force of the Executive Committee

Resolution V

RESOLUTION TO CREATE A NEW CAMPUS-WIDE PROCEDURE FOR THE ADJUDICATION OF COMPLAINTS OF VIOLATIONS OF THE UNIVERSITY POLICY ON SEXUAL MISCONDUCT.

WHEREAS students and others have expressed concerns over the effectiveness and clarity of the Alternative Disciplinary Procedure established by the Senate in 1995, and

WHEREAS the Statutes of the University provide that the Dean of each school of the University is responsible for the administration of discipline in the School of which he or she is Dean, subject to the reserve powers of the President and the Trustees, and

WHEREAS the difficult and specialized nature of cases of sexual misconduct requires training, sensitivity and experience in handling such cases, and

WHEREAS students and others have expressed a desire to have student participation in the adjudication process,

THEREFORE BE IT RESOLVED that a disciplinary procedure for complaints of sexual misconduct be established for the adjudication of complaints brought against students of any school of the University, or any affiliated institution, of which the Dean (or President) agrees to recognize as a disciplinary procedure for students enrolled in his or her School. This procedure is attached as Exhibit A to this Resolution and is to be known as the Disciplinary Procedure for Sexual Misconduct.

BE IT FURTHER RESOLVED that each school which elects to participate in the Disciplinary Procedure for Sexual Misconduct shall nominate a student affairs officer or dean and students, according to a process selected by that school, to be assigned to participate as a hearing panelist for the Disciplinary Procedure for Sexual Misconduct. These deans and students shall be provided with extensive training, repeated annually, in the psychological, social, including cultural and racial, and legal issues involved in sexual misconduct, as well as in procedures appropriate for hearing such cases, and in 'First Responder' procedures. Legal issues to be covered would include training in the evaluation of evidence and standards of proof. No panelist who had not undergone such training within the preceding twelve months would be eligible to hear cases until undergoing training or re-training.

BE IT FURTHER RESOLVED that the administrator established by Resolution III be responsible for all aspects of administration of the Disciplinary procedure for Sexual Misconduct, including the training of all hearing panelists, the selection and

appointment of panel members in each case, and the scheduling of hearings. The administrator will also advise the office of the dean of students of the Schools attended by each of the parties to the complaint that a hearing is taking place, but will provide no other details, including the names of the parties or panelists.

BE IT FURTHER RESOLVED that the administrator will maintain confidential files of each hearing, including the reports of the hearing panelists and any dissent and shall make such reports available to the Oversight subcommittee of the President's Advisory Panel on Security, although all identifying information with respect to individual students shall be removed prior to the release of any report.

BE IT FURTHER RESOLVED that the Disciplinary Procedure for Sexual Misconduct shall be reviewed two years from its effective date, and thereafter as recommended at the time of such review.

Proponent: Task Force of the Executive Committee

Exhibit A

Disciplinary Procedure for
Sexual Misconduct

A student charged with a violation of the University Policy on Sexual Misconduct is entitled to notice of the specific charges, an opportunity to be heard and an opportunity to appeal a disciplinary decision to the Dean of his or her School.

Ordinarily, a disciplinary proceeding begins with a written communication from the Coordinator, Sexual Misconduct Education and Prevention[1], requiring the student to attend a disciplinary hearing to respond to a specified charge. Charges shall be timely if brought while the accused student is still enrolled in the same school as at the time of the alleged violation, but in no case longer than five years after the occurrence. In rare cases, the proceeding may begin with an oral communication requiring the presence of the student at a hearing. The hearing is held before two deans and one student, from a pool of specially trained individuals not affiliated with the school attended by either party unless otherwise mutually agreed. The student member may be excluded by agreement of both students participating in the hearing, and either student may object to the membership of any specific panelist on the basis of acquaintance or other conflict. Either party may be accompanied by a non-participating member of the University community as support. The hearing must commence within ten days of the Coordinator's receipt of the complaint, unless the University is not in session.

The hearing is not an adversarial courtroom-type proceeding; the student does not necessarily have the right to be present to hear other witnesses and does not have the right to cross-examine witnesses or prevent the consideration of relevant evidence. In addition, although students are always free to consult with an attorney, they are not permitted to have an attorney present during a disciplinary hearing or at any appeal. Confidentiality about the facts or existence of the hearing must be maintained by all participants.

The student bringing the complaint must inform the hearing panel of the facts of the situation, and answer any questions from the panel. The accused student is informed of the evidence that led to the charges against him or her and asked to respond. The student may offer his or her own evidence. This includes the student's own appearance at the hearing and may include the appearance by others on his or her behalf and any written submission or relevant documents the student may wish to submit. Each student will be informed of statements made and evidence presented by the other party, and by witnesses, and will have a full opportunity to respond.

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[1] Proposed title of position created in Resolution III

After the panel has heard testimony from both students and any others, and has considered all of the evidence, it reaches a determination and notifies both students in writing of that decision. Both Deans on the panel must agree on the determination. The panel will also submit a written report, summarizing the evidence and its findings to the Dean of Students of the accused student's school, and recommending a penalty. If the student member of the panel disagrees with the determination, he or she may write a dissenting opinion, which will be submitted to the Dean of Students together with the written report. If the accused student is found to have committed a disciplinary infraction, the penalty can include probation, suspension and dismissal, and may include a prescribed educational program. Both students will be informed in writing of the Dean's decision, and the penalty imposed.

The student has the right to appeal a decision that results from a disciplinary hearing to the Dean of his or her School. The appeal must be made in writing within thirty days of the time he or she is notified of the decision, and it must clearly state the grounds for appeal. Normally, on such an appeal, the Dean of the School relies solely upon the written record and does not conduct a new factual investigation. However, the Dean is free to discuss the matter with the panelists if questions about process or proof are raised by the appeal. The Dean focuses upon whether, in the Dean's view, the decision made and the discipline imposed are reasonable under all of the circumstances of the case. There is no further right to appeal within the University.

Breaches of the confidentiality of the proceedings, or retaliation against a student bringing a complaint will constitute separate violations of the Sexual Misconduct Policy.

Exb 4A

Amendment

BE IT RESOLVED that Resolution II of the "Resolutions with Respect to the University Sexual Misconduct Policy and Procedure" be augmented to include the sentence "This committee shall be made up of at least 1/3 students" in each of the resolved clauses in the manner indicated below.

Resolution II

RESOLUTION TO IMPROVE EDUCATION AND TRAINING ABOUT AND PREVENTION OF SEXUAL MISCONDUCT, AND OVERSIGHT OF THE SEXUAL MISCONDUCT POLICY.

THEREFORE, BE IT RESOLVED that the President's Advisory Committee on Security establish a standing subcommittee composed of its membership and others, including administrators ex officio and representatives of affiliated institutions demonstrating an interest in the work of the subcommittee, including students, to evaluate methods of educating and informing students about the University's Policy on Sexual Misconduct, the availability of resources and appropriate standards of behavior with respect to sexual conduct, and about the responsible use of alcohol. This committee shall be made up of at least 1/3 students. This subcommittee shall report back to the Advisory Committee with recommendations for improvements in education and information on an annual basis.

BE IT FURTHER RESOLVED that the President's Advisory Committee on Campus Security establish a second standing subcommittee of its membership and others, including administrators ex officio and representatives of affiliated institutions demonstrating an interest in the work of the subcommittee, including students, to review, in confidence, all reports of hearing panels and appeals, and to assess the effectiveness of the Disciplinary Procedure, the training of the hearing panelists and any other matters with respect to the conduct of the disciplinary process in complaints of sexual misconduct. This committee shall be made up of at least 1/3 students.

BE IT FURTHER RESOLVED that the President's Advisory Committee on Campus Security establish a third standing subcommittee of its membership and representatives of the counterpart committees at affiliated institutions, including students, to review any issues of statistical reporting, education with respect to sexual misconduct, discipline involving members of more than one institution and any other matter pertaining to sexual misconduct of interest to more than one campus. This committee shall be made up of at least 1/3 students.

BE IT FURTHER RESOLVED that the President's Advisory Committee on Security review the method(s) of the compilation of statistics on the occurrence of reportable crimes on campus and in other areas as prescribed by statute, and make recommendations for improving the accuracy and completeness of these statistics.

Proponent: Student Caucus of the University Senate

Adopted as amendment Feb 25, 2000 ?