



**Brown University  
Sexual Assault Task Force**

**Final Report**

**April 2015**

April 7, 2015

Dear President Paxson,

As members of the Sexual Assault Task Force, we began our work in the fall of 2014 and issued an [Interim Report](#) in December. That report included a large number of near-term recommendations which we believed – following extensive campus engagement and discussion – could make an immediate positive impact on the campus, addressing the most urgent issues brought forward by the Brown community and experts in the field. We were heartened by the response of the community and by your response to our interim report and the [immediate implementation of nearly every recommendation we put forth](#) (including every recommendation which could be implemented immediately and some recommendations which we echo here, especially with regard to training and education, which were made knowing that they would be implemented over time).

We intend this final report to be read as a continuation of our [December 2014 Interim Report](#). Accordingly, we will not repeat the data, evidence, and findings regarding campus culture and values around sexual and gender-based violence and harassment, nor the detailed near-term recommendations set forth in that report. The two documents should be read together as they form one overall set of findings and recommendations. That being said, we have also learned a great deal from our discussions and work this semester, with the result that the recommendations we make in this final report are slightly different from what we anticipated in December.

The work of the Sexual Assault Task Force has been intense and intensive. As a group we have not always agreed with one another, so our interim and final reports, while generally reflective of consensus, do not necessarily represent unanimity of opinion among all members on all points. The issues and challenges presented by sexual and gender-based violence and harassment on a university campus are difficult and complex. The renewed controversy this semester added, at some level, to the uncertainty and lack of trust among students and others with regard to the University's resolve and ability in this area. It is quite likely – in fact, almost certain – that the dissension and distrust we have seen on campus and even within the Task Force from time to time will continue throughout this semester and into next year. As we wrote in our Interim Report, controversy and concern regarding Brown's policies, procedures and campus culture around sexual and gender-based violence and harassment is not a new development. We can expect that it will continue as we collectively work to rebuild trust in our system.

We are particularly concerned, however, that the campus debate could have the unintended consequence of discouraging individuals from bringing forth information or seeking support, especially if they feel that the facts of their situation may not be clear or may not meet a certain standard. **We take this opportunity to strongly urge any student, faculty, or staff with a concern, question, or complaint to seek support from a confidential resource or other support person or office. Information regarding how to do so can be found [here](#).**

In our view — having spent many, many hours over the last six months studying, listening, discussing and debating these issues and challenges — the Brown community is at an important point of inflection. In one direction on the curve, we can institutionalize the changes already adopted this year (which, while valuable, are relatively modest in scope) but do little to nothing else and in all likelihood will face another crisis of confidence in the not too distant future. Or, in the other direction, we can embrace — as a united campus — the opportunity to make significant and lasting progress. Our considered position is that the approach we have set forth in this Final Report, coupled with the already implemented recommendations of our Interim Report, present the foundation for such progress to be made. We acknowledge, however, that the opportunity could easily be lost if appropriate leadership is not exercised and if the community as a whole fails to both expect and support real and significant change.

If that opportunity is lost, the consequence will be more stories like the many we heard in public and in private this year. Stories of individual community members — students, faculty, staff, alumni, parents and others — on all sides of difficult and painful events. Stories of Brown experiences that were nothing like what is promised in the viewbook or by a hiring committee. Stories of pain, fractured trust, persistent trauma, and unrealized dreams and aspirations. Those stories are real and they should be unacceptable to every member of this community.

We are under no illusion that adopting all or most of our recommendations will eradicate violence, bias, discrimination, exploitation of privilege, and abuse surrounding sexual and gender-based violence and harassment on the Brown campus. But we recognize that generations of Brown students, faculty and staff have dedicated significant portions of their lives striving to do just that, both on our campus and in communities large and small throughout the world. We are inspired by their example and by the many individuals who have, both this year and in the past, spoken out about their personal experience and clearly called upon the University to do better. Brown can, should, and must be a community that others look to for similar inspiration and models of success. We owe our predecessors, our contemporaries, and our successors our very best effort to achieve that goal.

## **MEMBERS OF THE SEXUAL ASSAULT TASK FORCE**

Russell Carey, Executive Vice President for Planning and Policy, Co-Chair

Michele Cyr, Associate Dean for Academic Affairs for Biology and Medicine, Co-Chair

Mary Grace Almandrez, Director, Brown Center for Students of Color, Assistant Dean of the College

Kirstin Boswell-Ford, Associate University Chaplain

Katherine Byron '15

Liza Cariaga-Lo, Vice President for Academic Development, Diversity and Inclusion

Gail Cohee, Director, Sarah Doyle Women's Center, Assistant Dean of the College

Justice Gaines '16

Lorena Garcia '12 MD MPH '18

Jack Hayes, Director of Athletics and Recreation

Brooke Lamperd GS, History

Sara Matthiesen GS, American Studies

Carolan Norris, Associate Director of Athletics

Lindsay Orchowski, Assistant Professor of Psychiatry and Human Behavior  
Gretchen Schultz, Professor of French Studies  
Jason Sello, Associate Professor of Chemistry  
Bita Shooshani, former Coordinator of Sexual Assault Prevention and Advocacy and current  
    Psychotherapist at Counseling and Psychological Services  
Lauren Stewart '15  
James Valles, Professor of Physics  
Erin Wu MD '17  
Yvonne Yu '14.5

**STAFF TO THE TASK FORCE**

Michael Grabo, Associate Counsel, Office of the Vice President and General Counsel  
Frances Mantak, Director of Health Promotion

## **SUMMARY RECOMMENDATIONS OF THE SEXUAL ASSAULT TASK FORCE FINAL REPORT**

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While we hope all members of the Brown community will read our report in its entirety, we offer our central recommendations here in executive summary form.

**Recommendation 1:** Brown University should implement a unified University Sexual and Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy (the “Policy”). The Policy should apply to interactions between all members of the Brown community: student-student, faculty-student, faculty-staff, student-staff, staff-staff, faculty-faculty, and other permutations of Brown community member interactions at all levels of the institution. The Policy recommended by the Task Force is included as Appendix A to this Final Report.

**Recommendation 2:** All processes concerned with sexual and gender-based violence and harassment, including prevention, education and the enforcement of the Policy should be centralized in a newly created and appropriately staffed and funded Title IX Office that is led by the Title IX program officer. The Title IX program officer should oversee the work of deputy Title IX coordinators who represent each of Brown’s student groups (undergraduate, graduate and medical) as well as faculty and staff, and have the authority to convene and coordinate relevant offices, including the Office of Student Life (OSL), Office of Residential Life (ORL), Department of Public Safety (DPS), University Health Services (UHS) and Counseling and Psychological Services (CAPS), on matters related to Title IX and the University’s Policy.

**Recommendation 3:** Brown should develop a clearly described process (the “Process”) which will be followed by the Title IX program officer and deputy Title IX coordinators for the receipt, investigation, and informal and formal resolution of complaints of conduct that violates the Policy. The Process recommended by the Task Force is in Section III of this Final Report.

**Recommendation 4:** The Title IX Office should oversee the education and training of all University personnel who are directly or indirectly involved in the Process, including staff in OSL, ORL, DPS, UHS, CAPS, and others; members of hearing panels; advisers to complainants and respondents; and all personnel who are required to report alleged Title IX violations to the Title IX Office.

**Recommendation 5:** Standard protocols for investigations conducted by investigators and internal University offices, including DPS, should be promulgated by the Title IX Office and followed to ensure that investigations are thorough, fair, comprehensive and accurate.

**Recommendation 6:** Standard protocols and practices for the administration of medical exams related to sexual violence (including forensic examinations and toxicology testing) should be developed and promulgated broadly to the campus. Individuals, including hearing panel members, should receive appropriate training in the evaluation of medical evidence, including evidence regarding the use of alcohol and/or other drugs for the purpose of incapacitating an individual.

**Recommendation 7:** All students, staff and faculty should be required to participate in mandatory annual evidence-based education programs on sexual and gender-based violence and harassment. These education programs should be focused on prevention as well as supplying information that members of the Brown community need to know about the University's policy and processes. Special educational programs should be developed for groups that may be at elevated risk. Training should be conducted at orientations for all new students, including undergraduate, graduate, and medical students. This training should include material on healthy sexual relationships and consent.

**Recommendation 8:** University processes and procedures are not and should not be legal proceedings. However, complainants and respondents are clearly entitled to legal counsel if they so choose. The Title IX Office and the Office of General Counsel should maintain a current and active list of local attorneys who may be willing to represent, *pro bono*, complainants and/or respondents who are unable to afford legal counsel. Individuals should also be provided with clear information and support on how to pursue criminal charges through external law enforcement if they so choose.

**Recommendation 9:** The Title IX program officer should develop and implement a plan for annually tracking and reporting information to the campus and to an oversight and advisory committee of faculty, students, and staff. The president should charge, form and appoint this committee prior to the start of the 2015-2016 academic year. This committee should have the responsibility of conducting a review of progress every three years, beginning in spring 2016.

**Recommendation 10:** The Title IX Office should oversee an assessment of the level of resources available across the University to address issues of sexual and gender-based violence and harassment. This assessment will include resources in the Title IX Office, related support units such as UHS, CAPS, DPS, the Office of Residential Life, the Office of Student Life, and in student-focused centers such as Sarah Doyle, LGBTQ Center and BCSC.

**Recommendation 11:** The University should continue the progress made on the recommendations contained in our [Interim Report](#) to continuously improve communication, clarity, and transparency of information regarding all aspects of sexual and gender-based harassment and violence. This includes clear and accessible information about University policies, resources and support, interim measures, rationale for decisions, and clear and consistent communication to all parties while a matter is ongoing at any stage. The University should also institutionalize mechanisms to proactively solicit, evaluate, and act upon feedback from community members engaged in these processes, both during and after they are complete.

**Recommendation 12:** The president should appoint an appropriate senior officer to represent the University on the state-wide task force on adult sexual assault currently being formed under the leadership of [Day One](#), the Providence Police Department, and other leaders.

This brief summary does not represent all of our recommendations and we strongly encourage all members of the community to read the Final Report in full. As the report is evaluated and assessed and plans for implementation progress, this executive summary will be useful but does not replace the substance, context, and nuance of the report that follows.

**Brown University  
Sexual Assault Task Force**

**Final Report**

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## I. INTRODUCTION AND OVERVIEW

The Sexual Assault Task Force was [charged](#) by President Paxson with the responsibility for examining and making recommendations regarding the following questions:

**Sexual Assault Prevention:** Are we following best practices for the prevention of sexual assault, and do we have adequate staffing to implement best practices? The Task Force should consider the prevention of sexual assault among undergraduate, graduate, and medical students.

**Student Support and Advocacy:** Are the resources currently in place to provide support and advocacy for students adequate and consistent with best practices? The Task Force should consider resources made available to students who have been victims of sexual assault as well as students against whom complaints are made.

**Policies and Procedures for Sexual Misconduct:** The University has established policies and procedures for receiving, investigating and resolving complaints made by students of sexual assault and sexual misconduct. The Task Force shall review these policies and procedures, assess their effectiveness, and identify areas for improvement consistent with best practice and the University's goal of being a national leader in these matters.

Following the release of our [Interim Report](#) in December and President Paxson's [implementation of our near-term recommendations](#), we resumed our work in January 2015. The Task Force was strengthened by President Paxson's appointment of three additional members who provided greater depth and experience with regard to the perspectives of complainants, respondents, and students affected by trauma: Gail Cohee, Carolan Norris, and Bitu Shooshani. This semester we continued to meet weekly and engaged in discussions with members of the Brown community as well as external law enforcement agencies and the executive director of [Day One](#) (Rhode Island's community sexual assault and trauma center). The Task Force Subcommittee on Graduate and Medical Students has also continued to meet regularly and conducted open outreach forums at the Alpert Medical School, with the Graduate Student Council, and a focused discussion with representatives of a number of Alpert Medical School and Graduate School student organizations. The Task Force received and discussed a comprehensive and valuable [report compiled by Katie Byron '15 and Will Furuyama '15](#) with findings and recommendations from interviews they conducted with student survivors of sexual violence at Brown. We also received a [report on potential campus sexual assault investigation models compiled by Justice Gaines '16, Adam Kemerer '15, and Yvonne Yu '14.5](#). Both reports represent careful and thoughtful research and findings that are reflected in the final recommendations of the Task Force.

Over the course of the semester we have met with Dr. Unab Khan (Director, University Health Services), Kelly Garrett (Program Director, LGBTQ Center), and Yolanda Castillo-Appollonio (Associate Dean of Student Life and Director of Student Conduct) to discuss issues and concerns related to our charge and their areas of responsibility and expertise. We spoke with staff members at Princeton University regarding their Community Integrity Program, an eight-week confidential



program for students found responsible for sexual misconduct who return to campus following completion of their sanction. The co-chairs of the Task Force presented to the Brown University Community Council and various members engaged in formal and informal conversations about our work with colleagues within and outside of Brown. As a full Task Force we debriefed and discussed community reaction to our [Interim Report](#) and President Paxson's response to our near-term recommendations and the implementation of those recommendations this semester. Near the end of our work we met with President Paxson to discuss the issues and concerns raised by the disciplinary case which received widespread campus discussion and debate this semester. Subsequent to that meeting the president provided the Task Force with her views on the concerns brought forth by students in response to that case, and her letter is included with our Final Report (Appendix B).

As we have prepared our Final Report and recommendations, the national search for a Title IX program officer – a new position for Brown, created by President Paxson last year – concluded with the appointment of Amanda L. Walsh, announced Thursday, April 2, 2015. Knowing that senior leadership position would soon be filled has guided much of our thinking about what to recommend. Our aspiration is for the Title IX program officer to be as successful as possible and for the Brown community to work together effectively for positive change in the campus culture around sexual and gender-based violence and harassment. All of the recommendations that we set forth in our [Interim Report](#) and in this Final Report are offered in that context and with that goal.

**The guiding principle underlying nearly all of our recommendations, therefore, is a centralization of resources and processes — formal and informal — under the leadership and supervision of the new Title IX program officer. We strongly recommend that sufficient resources be dedicated to the Title IX Office — and to the other offices that play critical roles in education, awareness, and response — to ensure that the individual appointed to this new role and the University as a whole can be highly successful and effective.**

Centralization should not be read as a criticism of the offices and individuals currently doing this work in different areas of the University. In fact, we found that those offices and individuals care deeply about these issues and about protecting the health and safety of the campus community and will continue doing so, with even greater effectiveness, in the system we recommend. The concern that we are seeking to address through centralization reflects the complicated and unique dynamics of sexual and gender-based violence and harassment. These issues, as we described in great detail in our [Interim Report](#), are deeply complex and unlike almost any other matter the University deals with on a regular basis. The complaints arising from conduct that violates our proposed University policy require highly specialized training, awareness and skill by individuals and institutional processes. A trauma-informed system and process — and campus culture — is our aspiration, one that cannot be achieved by disparate, disconnected, and often uncoordinated processes in multiple areas of the campus. Everything we are seeking to achieve requires individuals and committees with levels of knowledge and judgment that can only be obtained through experience, training, and highly coordinated and collaborative execution of clear and transparent policies and practices.

**Toward this end, we recommend a centralized institutional approach to the receipt, investigation, and resolution (informal and formal) of complaints of conduct that violates the University's Sexual and Gender-Based Harassment, Sexual Violence, Relationship and**

**Interpersonal Violence and Stalking Policy.** That Policy, which we presented to the Brown community in draft form in December 2014 for input and feedback, is proposed in final version with this report (Appendix A), and we recommend that it be adopted and implemented as policy by the University.

As we noted in our [Interim Report](#), we anticipated recommending a new process for resolving complaints of sexual violence between students. However, as we continued our work this semester, it became clear to us that doing so would not be enough for Brown. It would not be sufficient to fulfill our mandate, nor would it be enough for our community as a whole. The issues and concerns of sexual and gender-based violence, harassment, and discrimination are a Brown community issue and they need to be treated as such. While many incidents do occur between students, it is clear from our work that the dynamics of power and privilege manifest themselves in faculty-student, faculty-staff, student-staff, faculty-faculty, staff-staff, and many other permutations of Brown community member interactions at all levels of the institution.

The challenges and barriers faced by individuals on the lower end of these power relationships — including graduate and medical students — in reporting alleged misconduct and violations of policy are significant. Concerns about career and professional development, ostracization in small cohorts, and the confusing entry points and opacity of the complaint resolution process in some settings all contribute to under-reporting, a concern we heard repeated many times. As we discussed these challenges further, it became clear that a reform of the student complaint process alone was not sufficient. In particular, given the need for substantial and consistent training of all community members who have any role in the complaint resolution process, we felt that multiple processes and systems are destined for failure in terms of consistency and sustainability.

In our vision of a centralized, compassionate, trauma-informed, fair and balanced system, the Title IX program officer will play an essential leadership role at a senior level. That individual will have the skill, experience, authority and institutional support to serve as an active and engaged leader across the entire campus. Complaints of behavior alleged to violate our proposed University policy will be reported to and tracked by the Title IX Office in a central database (which Brown has never done) which will enable the University to detect and respond to patterns of behavior by individuals or in departments or organizations and ensure that the University policy is implemented in a consistent and effective manner.

The Title IX program officer, however, is just one person and cannot do this work alone. We envision the Title IX Office being comprised of a team, led by the Title IX program officer and formed by individuals serving as deputy Title IX coordinators for undergraduate, graduate and medical students (one coordinator for each student community) as well as deputy Title IX coordinators for faculty and staff. Along with other key offices, such as the Department of Public Safety and Health Services, the Title IX team will be highly trained and will meet on a regular, frequent basis to coordinate and oversee the intake and resolution of all complaints of alleged violations of the University Policy. Every office that is a first responder or has other institutional responsibilities for aspects of the process — DPS, CAPS, Student Conduct, Human Resources, Health Services, General Counsel, etc. — must be convened regularly by the Title IX program officer to share appropriate information and ensure that all reports are being received, acted upon, and resolved in a timely manner.

The Title IX program officer must have the support of and direct access to the president and the provost in order to carry out these responsibilities. Like many positions of senior leadership at the University, influence, collaboration and teamwork are key, the Title IX program officer also must have the authority to ensure that policy is clear, consistent, and followed, that interim measures are implemented and enforced, and that the University's responsibilities to ensure a safe and welcoming campus environment for all students, faculty, and staff are met on a daily basis and — when they are not — that steps are taken in a responsible and timely manner to correct the deficiencies. We recommend that direct access to both the president and the provost be institutionalized in the Title IX program officer position description so that it is clear for now and in the future that the position has both the support of and the ability to access both of those offices.

This is clearly a high level of expectation for a new office and a new individual in a position which did not exist at Brown before this year. That is why the appropriate resources and support (including staff, program and operating budget, authority, and institutional partners and support) will be critical. We also acknowledge that the individual appointed to that position has expertise and experience that will be essential to Brown's continued progress. Accordingly, we have organized many of our recommendations and findings in the form of a framework — with some degree of flexibility — to allow that individual and the community as a whole to establish the appropriate processes, procedures and practices over the coming months. Doing so also recognizes that this is an area which will continue to evolve. The University needs to be prepared to adapt and improve on an ongoing basis and to assess and evaluate progress on a regular and routine schedule (as recommended below).

We approach these recommendations with the knowledge that this semester's events have been challenging and difficult for many members of our community, in particular the individual students directly affected. While we have sought to address some of the concerns raised by that case in our recommendations (and many were also addressed by the recommendations implemented as the result of our Interim Report) we also recognize that the campus discussion continues as we conclude our work. We know, however, from our many conversations — public and private, large and small — over the course of this year that members of the Brown community are committed to eradicating sexual and gender-based violence and harassment on our campus. We will not always agree on the best path to do so, nor will all members of the community always trust the institutions and processes in place to address these concerns. No matter how effective the system we design and implement, confidential information may be leaked; decisions can be second-guessed; motives could be questioned; and so on. While we understand that reality, we also understand that as a community we have an opportunity to rise above that cycle. As a community and as individuals we can commit ourselves to a culture of caring, tolerance, and respect. We can — and must — demand better of ourselves and hold each other accountable to the high level of conduct and discourse we are capable of achieving. No Task Force, no president, no dean and no policy can do that alone: It is a Brown University community responsibility. It is a responsibility we hope and implore all faculty, students, staff, alumni, and parents to readily accept and to make real in our daily lives.

## II. CHANGING CAMPUS CULTURE – TRAINING, EDUCATION AND AWARENESS

### *University-Wide Training Needs and Priorities*

In our [Interim Report](#) we wrote extensively about the need to change campus culture regarding issues and prevalence of sexual and gender-based violence and harassment. We made a number of detailed recommendations regarding training and awareness programs, knowing that most if not all of those recommendations would be implemented over the coming months and year. Those recommendations naturally took lower priority than the immediate changes that were made to policy and procedure at the beginning of this semester, and many needed further development as well as leadership (in particular, from the Title IX program officer) and resources.

It is critical that aggressive and proactive efforts be made now to implement these recommendations and others we offer in this section. The cycle of planning for the next set of new student orientation programs and the academic year in general is already well underway, and we feel strongly that opportunities exist now in terms of both momentum and awareness that should not be squandered by inaction or a lack of appropriate resources, leadership, and delegation. Accordingly, in this section we will repeat some of the recommendations that we made in our [Interim Report](#) about training, education, and awareness programs as well as offer new ideas and priorities that emerged from our work this semester. In all cases we attempt to attach both a timeline and an appropriate lead office or offices to ensure the recommendations get turned into implementable action items.

As we wrote in December, our vision is to change the culture of the Brown campus around issues of sexual and gender-based violence and harassment. Brown community members certainly have the ability to do so; however, the fundamental expectation that students, faculty and staff should just know the right thing to do and the resulting campus culture should be safe for all is unrealistic in the absence of appropriate intervention and support. *A critical and essential element of establishing — and maintaining — a campus culture in which all members are equally valued, respected and safe is the development of campus-wide education and training programs.* These programs, many of which are already in place but require additional resources and support, must rely on the expertise of faculty at Brown and elsewhere, include targeted in-person and online programs that are based in trauma-informed research, effective, and evaluated regularly. *Those programs should be in place at a much more robust level for all members of the community — undergraduate, graduate, and medical students, faculty and staff — by next academic year. Program planning and resource allocation are already underway in some areas, but they must intensify, and clear expectations and responsibility must be set for the appropriate offices, including for undergraduate, graduate, and medical student orientation.* Responsibility at the senior level for ensuring this is done should be given by the president to the vice president for academic development, diversity and inclusion, the vice president for campus life and student services, the dean of the College, the dean of the Graduate School, the dean of public health, and the dean of medicine and biological sciences. A clear plan for fall orientation which addresses these concerns and priorities should be in place by July 1, 2015.

*Essential to the success of these programs is ensuring that all members of the community are exposed to the information and material on a regular and recurring basis. Doing so will require*

*mandating — and enforcing — annual participation.* This is consistent with the expectations set forth by the federal government encouraging institutions to mandate such training to increase its effectiveness. *The University can begin doing so immediately by stating that any faculty or staff member who fails to complete the new mandatory online sexual harassment training — which can roll out as soon as the University policy we recommend is formally adopted — by the stated deadline will not be eligible for a salary increase in the next fiscal year (or some other appropriate consequence to ensure completion).* Responsibility at the senior level for ensuring this is done should be given by the president to the vice president for academic development, diversity and inclusion, the provost, and the executive vice president for finance and administration. A clear plan for University-wide faculty and staff mandatory online training should be in place by July 1, 2015.

Ongoing training for students, faculty, and staff is also critical, and we are convinced that a mix of online modules and in-person, small group format training sessions is essential to truly impact campus culture. Again repeating ourselves from our Interim Report, we were intrigued by a model mentioned by a transfer student from Colby College. At that institution a series of trainings and discussion opportunities on numerous topics related to diversity and community are offered during the course of the year, and students must participate in at least five in order to register for courses for the next academic year. Such a model could work effectively at Brown and align nicely with existing initiatives like Transformative Conversations. This work is already being led by the vice president for academic development, diversity and inclusion in collaboration with many offices and organizations. We recommend that it be further developed and appropriate resources dedicated for its success (including staff time, budgetary support, and senior institutional support and expectations for compliance), over the course of the 2015-2016 academic year with the goal of having a robust, mandatory program in place for all community members in the 2016-2017 academic year.

*The Task Force also recommends the expansion and strengthening of specific sexual assault education programs aimed at campus communities at higher risk for committing sexual misconduct.* National studies and survey research at Brown have found that athletic team and male fraternal organization members drink alcohol in riskier ways than the general population (*Capone et al., 2007; Knight et al., 2002; and Unpublished University Data, 2012*). Risky alcohol use and conformity to masculine norms are associated with sexual aggression (*Locke & Mahalik, 2005*). In addition, Greek affiliation and athletic participation for males is associated with sexual aggression and rape myth acceptance (*Murnen & Kohlman, 2007; Tharp et al., 2012; McCray, 2014; Armstrong, Hamilton, & Sweeney, 2006; Boswell & Spade, 1996; Humphrey & Kahn, 2000*). Significant resources need to be deployed to assist ongoing efforts by those organizations to increase training and education and help them address these issues more effectively. This is not intended to place blame on these communities but is instead borne from a recognition of the reality of sexual violence on college campuses. Our priority is to provide these communities with greater levels of resources and support to address these issues proactively.

The need for resources and leadership to offer and sustain an effective program of training and education cannot be overstated. The vice president for academic development, diversity and inclusion, the Title IX program officer, and other leaders in various offices are already taking responsibility for this work and we strongly recommend that they be afforded the resources and

institutional support to do it well, with substantial progress being made over the course of the 2015-2016 academic year.

Over the course of this semester, we developed additional specific recommendations and priorities in this general area, especially with regard to the needs of graduate and medical students (many of our still-relevant [Interim Report](#) recommendations in this area focused on undergraduate students). Many of these relate to and/or support the general recommendations regarding training programs above. These include:

#### *Graduate and Medical Student Orientation and Training*

- At orientation in fall 2015, all incoming graduate students and medical students should receive an introduction to policies, procedures, resources, and individuals who have roles and responsibilities related to Title IX issues in the Graduate School, the Alpert Medical School and the School of Public Health. The Title IX program officer should be tasked with ensuring this happens in a consistent manner and each dean should ensure that an appropriate amount of time (a minimum of one hour) is dedicated in the orientation program for the necessary presentation and discussion.
- A standardized training for all graduate students must be developed, under the leadership of the dean of the Graduate School in collaboration with the Title IX program officer, in time for the 2016-2017 academic year. All first-year students would take this course at some point during their first semester; failing to do so results in spring registration being blocked. Wherever possible, this training should be integrated into existing relevant courses, such as the Responsible Conduct of Research (RCR) course or the Sheridan Center Teaching Assistants (TA) orientation and other departmental TA orientations.
- Training for all medical students in the first year must be developed as a mandatory module to be completed as part of the doctoring course and the introduction to clerkships course. This training should be developed under the leadership of the dean of medicine and biological sciences in collaboration with the Title IX program officer and the Student Health Council, in time for the 2016-2017 academic year.
- In addition, a standard training should be developed which can be made available to academic departments that want to be proactive about education for their graduate and medical students. Responsibility for developing this program should rest with the Title IX program officer in collaboration with the deputy Title IX coordinators for graduate and medical students with pilot programs being offered in spring 2016.
- Training for those employees in a leadership or supervisory position designated as “responsible employees” must contain a section on the specific issues graduate and medical students face as well as interim measures available to graduate and medical students. Department chairs and directors of graduate studies must complete this training on an annual basis. Responsibility for developing training for responsible employees (of which this will be one component) by fall 2015 should rest with the Title IX program officer in collaboration with the deputy Title IX coordinators.

- The annual mandatory training for all Brown faculty (employed or non-employed) should include specific considerations about the complex power dynamics at play in the context of interactions with graduate and medical students. Training should also be provided to additional individuals (mentors, preceptors, residents, interns, fellows) who may act in advising or instructional capacities for graduate and medical students at different stages of their training. This training should concretely address issues of diversity, power, privilege, particularly as they impact students of color, LGBTQ and other underrepresented groups in academic settings and beyond. Responsibility for developing training for all faculty should rest with the provost and the vice president for academic development, diversity and inclusion and should be incorporated in the online training programs as well as pilot in-person programs being offered in spring 2016.

*Information About Resources for Graduate and Medical Students*

- All new graduate students and medical students should receive a graduate student-specific or medical student-specific pamphlet about available resources regarding these issues at orientation. This pamphlet should be provided to all graduate and medical students at the start of every year. The current pamphlet for graduate students should be expanded to include sections on graduate students' responsibilities as teachers and available interim measures. A new pamphlet will need to be developed for medical students, setting out the roles and responsibilities attendant to the various stages of their training and in their interactions with other health care professionals, patients, and community members.
- A pamphlet for faculty and staff on the steps necessary for responding to sexual misconduct and assault (similar to that provided by Wheaton College) should be emailed annually to all faculty and staff, which should include a section specifically relevant to graduate and medical as well as undergraduate students.
- Posters that clearly provide information about options, support and assistance and filing a complaint related to sexual misconduct should be posted at different public spaces where graduate and medical students normally congregate (student centers, lecture halls, cafeterias, lounges, deans' offices, department offices).
- Online resources outlining processes for reporting, information about resources, and any other Title IX information must be updated to include specific sections for graduate and medical students.
- Specific flowcharts which outline the complaint processes as they pertain to the complainant and respondent should be developed for graduate and medical students (similar to the flowcharts developed this semester for undergraduate students).
- Resources developed should be culturally appropriate and disseminated in ways that ensure that diverse groups (students of color, LGBTQ, international students) have equitable access to these resources.

- Responsibility for recommendations pertaining to information about resources should rest with the vice president for academic development, diversity and inclusion in collaboration with the deans and deputy Title IX coordinators in the Graduate School and Alpert Medical School, with substantial progress being made over the course of the 2015-2016 academic year.

### *Education and Research*

- Brown University should promote the development of education and research which can better inform our understanding of how to more effectively address sexual violence, especially among graduate and medical students where limited research exists. Brown should partner with relevant professional organizations, such as the Council of Graduate Schools (CGS) and the Association for American Medical Colleges (AAMC), to facilitate education and research initiatives in this area while also, as we recommended in our [Interim Report](#), identifying opportunities to support faculty competing for funding (from NIH and elsewhere) to conduct research on sexual violence, and in particular on education and prevention for college students (but also for younger populations, since earlier intervention appears to be more effective). The Center for Alcohol and Addiction Studies is one area where this research is already taking place at Brown, and further research could inform intervention and education programs at Brown and on other campuses.
- The Alpert Medical School should incorporate units on intimate partner violence into existing curriculum, which could be developed in collaboration with the Student Health Council.
- Responsibility for these education and research recommendations should rest with the vice president for academic development, diversity and inclusion in collaboration with the deans and deputy Title IX coordinators in the Graduate School and Alpert Medical School with substantial progress being made over the course of the 2015-2016 academic year.

### *Resources and Staffing*

While we recognize that resources and budgetary support for new initiatives are constrained by the current budgetary situation facing the University, it is clear that adequate resources to respond to gender-based and sexual harassment and violence do not currently exist to serve the needs of graduate and medical students, faculty, staff, or undergraduate students. There are acute needs in the areas of graduate and medical students, underrepresented groups, and support services for respondents, among others. An assessment of the needs across the University to effectively implement the recommendations accepted from this report needs to be conducted by the administration over the course of the coming year, most likely and appropriately led by the vice president for academic development, diversity and inclusion and the Title IX program officer. We recommend that as detailed an assessment as possible be conducted over the summer in order to inform the deliberations of the University Resources Committee in the fall, and that one-time resources be made available where possible and appropriate to bridge the gap to permanent funding solutions. We have identified a number



of priority needs areas which we set forth here not as specific recommendations but rather to inform that comprehensive assessment:

- There are limited dedicated support persons with expertise relevant to graduate and medical students. Expertise in this area is needed in either Health Promotion or the Office of Institutional Diversity and Inclusion with regard to materials and trainings specific to graduate and medical students. Additionally, support deans within the Office of Student Life and in the Graduate School are needed to more effectively address outreach and advocacy specific to graduate and medical student needs related to diversity, equity, and discrimination.
- The Sarah Doyle Women’s Center (SDWC), the LGBTQ Center, the Brown Center for Students of Color (BCSC), and the office of Student/Employee Accessibility Services (SEAS) provide varying but important levels of support for students involved in issues of sexual assault. These centers struggle to meet demands for services and support that regularly exceed the capacity of their staff. Additional staff are needed to provide support for individuals going through the complaint process, to find and train advocates, and to ensure that sufficient capacity exists to meet the needs of marginalized groups and individuals. The Task Force requested and received specific program and staffing needs from the directors of those centers which we have conveyed to the vice president for academic development, diversity and inclusion to inform the comprehensive needs assessment we recommend be conducted as soon as possible. We additionally recommend similar needs assessments for the Office of Student Life (both with regard to student conduct and student support staffing), the Office of Residential Life (in particular with regard to Greek, program house and off-campus housing populations) and the Department of Athletics and Physical Education. Each represents areas that we believe require additional resources to address issues of culture, climate and awareness.

#### *Sexual Assault Information and Resources Network*

A Sexual Assault Information and Resources Network (the “Network”) has existed for some time under the auspices of the Sarah Doyle Women’s Center. The Network exists to serve as an additional community resource for undergraduates, graduates, staff, and faculty that are involved in an incident of sexual misconduct. Members of the Network are trained on Brown’s resources and reporting procedures. This includes identifying potential systems of support both internal and external to Brown, as well as outlining the details and potential outcomes of reporting an incident. Currently, the Network is comprised of only four individuals who also serve as advisers to students going through the disciplinary process. The Task Force recommends that the Network be re-focused as a collaborative effort of the Women’s Center and the Office of Institutional Diversity and be expanded to approximately twenty faculty members who represent a diverse group across identities, departments, and divisions in order to ensure accessibility of resources. This is especially important for graduate and medical students who may want to discuss their situation with someone who has no professional connection to their field and/or area of expertise. The Task Force recommends that appropriate resources be provided to the Women's Center in order to ensure the success of the network, and that need should be incorporated in the comprehensive assessment recommended above. It is critical that the function and goals of

this Network be closely coordinated with the Title IX Office and that questions and issues regarding privacy, training, and reporting obligations be thoroughly examined and clearly set forth.

### *Advisers*

The Task Force identified a significant need for more faculty and staff willing to serve as trained advisers for complainants and respondents. Students, including graduate and medical students, are entitled to an adviser who supports them throughout the entirety of the reporting process, whether informal or formal. We recommend that the task of recruiting, growing, and identifying appropriate forms of compensation or incentives for advisers be housed within the Title IX Office. Given that advisers will need training that addresses issues of diversity, power, and privilege, we anticipate that the Title IX Office will work closely with the Sarah Doyle Women's Center, the LGBTQ Resource Center, and the Brown Center for Students of Color to develop and provide training for advisers. The Title IX Office will also work closely with the staff person in charge of growing the Network in the event that those faculty members wish to expand their involvement and become trained to serve as an adviser.

### *Education Regarding Consent, Healthy Sexual Relationships, and Diversity and Inclusion*

Much of our work and recommendations have centered on what is prohibited, not allowed or not to be tolerated with regard to sexual and gender-based violence and harassment. While important and essential, that does run the risk of unintentionally communicating that sexual activity and relationships are bad and unhealthy. On the contrary, the campus climate we envision promotes sexual health, choice and consent. In particular, we recognize and support the need for sexual health and consent education on campus with a healthy and positive focus on sexual agency, namely the right of a person to understand and explore their relationship to sex and attraction, or lack thereof, and exert control over their own sexuality while respecting the agency of others. This includes the right of individuals to choose not to engage in sexual activity as well as the right to engage in intimacy the way an individual desires with a consenting partner(s). We believe there is an opportunity to ensure sex education at Brown focuses on the diversity of different types of relationships, including LGBTQ relationships, and that our training and awareness language around sexual assault must be inclusive of male survivors and genderqueer survivors, and survivors whose assailants do not identify as cisgender men, among others.

In addition, education and training on sexual and gender-based violence and harassment, and related materials should include:

- Use of gender-inclusive language, and removal of assumptions of gender identity in discussions of sexual violence.
- Discussions of the dynamics of privilege, equity, and oppression, including of the impact of class and socioeconomic status on perceptions and understandings of sex and rape, as well as access to resources.
- Information regarding access to resources and legal counsel.

- Recognition of the historical context in which sexual violence occurs in communities of color and indigenous communities.
- Discussion of the ways in which smaller scale statements and behaviors, which may not be intended to be harmful, can nevertheless contribute to a campus culture which reinforces unacceptable norms (*e.g.* jokes about rape, “microaggressions”).
- Discussion of the forms of physical and emotional manipulation commonly used by sexual predators and assailants.
- Information about common responses to trauma, with the understanding that not exhibiting these responses does not mean an individual has not been the victim of sexual assault.
- Consideration for individuals who may not have the physical/mental/behavioral ability to engage in “active and enthusiastic” consent.
- Conversations that acknowledge and identify sexual violence that occurs prior to or outside of the context of Brown, including childhood sexual violence.
- Acknowledgement that community members come to Brown from across the globe and may have varying cultural contexts and experiences regarding sex and sexuality as well as institutional policies, processes and procedures. Educational programs that understand and are sensitive to these contexts should be developed.

### III. CENTRALIZED INVESTIGATION, RESOLUTION AND TRACKING OF COMPLAINTS

In this section we delve into the details underlying our primary recommendation that Brown adopt a centralized institutional approach to the receipt, investigation, and resolution (informal and formal) of reports of conduct that violates the University policy we also recommend be adopted. There is a great deal of substance — much of it nuanced and complex — in this section, which represents the bulk of our work and our aspirations. It is important to bear in mind that what we are proposing is a series of connected policies, principles, values and structures which we believe, taken together, represent a significant step forward for Brown. As stated elsewhere, it is intended to be a framework, and we recognize that the expertise of the new Title IX program officer and others will be brought to bear in the assessment of our recommendations and, if accepted, their implementation. There is a certain amount of flexibility inherent in any framework, and we recognize that some of our recommendations may not be accepted, as well as the fact that processes and procedures for some constituencies (such as students) may not be appropriate for others (such as faculty or staff). We believe strongly, however, that a central, coordinated, highly effective, well-supported and sensitive approach to these issues is essential for Brown's efforts to be successful. We describe the reasons underlying that strong belief in more detail throughout this section of our report.

#### *Proposed University-Wide Policy*

First and foremost, we recommend that our proposed **Sexual and Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy** (the "Policy") be enacted in — or close to — the final form presented here as Appendix A. We have adjusted and edited the policy based on community feedback received since it was circulated as a draft policy with our [Interim Report](#), and we feel it is appropriate and sufficient for Brown at this point in time.

The policy is purposefully intended to be broad and comprehensive — it applies to all members of the University community. The formal and informal processes of complaint resolution that support the policy should also be available to all members of the community (and others, as appropriate, who make complaints of alleged violations by Brown community members).

Based on the community feedback and our own discussion, we made a number of significant revisions and additions to the draft policy circulated with our [Interim Report](#). These include the following:

- We defined prohibited conduct specific to the provision or administration of alcohol and/or another drug for the purposes of incapacitating another individual to the extent that they are unable to consent to sexual activity with another person.
- We incorporated a section defining prohibited relationships between community members with differential positions of power.
- We incorporated a clear statement with regard to conflict of interest in these matters. Responsibility for overseeing and implementing the conflict of interest policy with respect

to these matters should rest with the Title IX program officer whose decisions will be final and absolute.

- We added a section on retaliation in these matters. Additional consideration should be given to the development of a more general policy to clearly establish the ongoing conflict of interest (which could also constitute retaliation in some forms) that a respondent may have related to any professional/academic decisions pertaining to the complainant. Where relevant, the respondent should sign a conflict of interest document, which would require their recusal from future professional deliberations pertaining to the complainant (such as serving on thesis committees, reviews of grant proposals and manuscripts, or deliberations regarding future positions or promotion reviews).
- We added a provision specifying that if a student (undergraduate, graduate or medical) withdraws after the University has begun an investigation but prior to disciplinary charges being filed, an entry should be made on their transcript that indicates the student has withdrawn with an investigation pending. If a student withdraws after disciplinary charges have been filed but prior to resolution, an entry should be made on their transcript that indicates the student has withdrawn with disciplinary charges pending.
- We clearly delineated and defined the concepts of confidentiality and privacy as well as confidential resources and responsible employees (including a definition of who we believe should be designated as responsible employees).

In order to effectively enact and implement this single, centralized policy, all other policies which currently exist — including the student sexual misconduct policy, the University sexual harassment policy, and the Faculty Rules and Regulations policy on sexual harassment — must be removed and replaced by the new University Policy. Many of those policies are out of date and internally and/or externally inconsistent. The very presence of multiple, sometime conflicting, policies contributes to the sense of confusion and disarray across the University processes for dealing with these matters, a theme we heard repeatedly throughout our work this year.

### ***Role and Responsibility of the Title IX Program Officer and Deputy Title IX Coordinators***

As stated above, the Title IX program officer is the senior leader with institutional responsibility for overseeing the Policy, training and education programs associated with the policy, and coordination and oversight of the informal and formal complaint resolution processes. The deputy Title IX coordinators for students, faculty and staff are designated individuals whose positions include responsibility for carrying out these duties in their respective area of the University. The deputy Title IX coordinators report to and are overseen and evaluated by the Title IX program officer with respect to these responsibilities. All matters alleged to be in violation of the Policy will be brought to and tracked by the Title IX Office. Such centralization of data, control and coordination will allow the University to be aware of and respond to repeat offenses by the same individual and, more broadly, to monitor and address institutional issues of campus culture and climate.

The complaint resolution processes associated with the Policy are critical. As noted above, our recommendations here go beyond student-student complaints as we feel it is essential to have a centralized system in place which ensures that information is reported to the Title IX Office and that enables the Title IX program officer to assure consistency, training and accountability across multiple areas and responsible offices.

That being said, we do not presume that there can, nor should be, only one venue for resolving complaints. Investigating and, in particular, sanctioning decisions for misconduct by students is a different matter from faculty and staff due to the different legal relationship between those individuals and Brown. Further, important positions of power and influence are held by individuals in teaching and professional positions in the Alpert Medical School who are not University employees. While the principles we set forth to guide complaint resolution processes apply, we believe, to all constituencies, we acknowledge that for a variety of reasons the appropriate complaint resolutions processes may need to vary. We believe that is appropriate, so long as the information and the institutional coordination responsibility is maintained in a central manner by the Title IX Office.

We also recommend that the complainant be given latitude and agency to help determine the path by which complaints will be resolved. There are limits to this latitude, of course. For health and safety reasons there will be instances in which the University must take immediate action or pursue an investigation and disciplinary action, although the complainant should always be fully informed of the necessity and reasons for doing so. Such situations, however, are not typical and in most instances the information and the complainant's willingness and readiness to file a complaint and/or seek some other form of redress or resolution will evolve over time in consultation with a confidential resource, deputy Title IX coordinator, and/or other support person. Given the traumatic nature of sexual violence (as described in detail in our [Interim Report](#)), it is essential that complainants and survivors be given time and power to determine the appropriate path for their individual circumstances. That principle necessitates a multiplicity of possible paths. It is essential that these be clear and well documented. Significant and substantial efforts have already been implemented to make information clear and accessible, but more will need to be done if the recommendations we make here are to be successfully implemented.

While prioritizing the agency of the complainant and survivor, the Title IX program officer and deputy Title IX coordinator must also follow a process for initial assessment and ongoing evaluation of a complainant's request for confidentiality (if such a request is made). The process should involve a multi-disciplinary team evaluation, under the direction of the Title IX program officer, with clear factors set forth to transparently define the process.

As an example, the process may include the following level of detail: Where a complainant requests that the complainant's name or other identifiable information not be shared with the respondent, that no investigation occur, or that no formal action be taken, the University will balance this request with its obligations to provide a safe and non-discriminatory environment for all University community members, including the complainant or person who reported the incident, and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a respondent.

The Title IX program officer, or deputy Title IX coordinator, will consider the following in evaluating a complainant's request for confidentiality, that no investigation occur, or that no formal action be taken:

- i. the nature and scope of the alleged conduct, including whether the reported misconduct involves the use of a weapon;
- ii. the complainant's wish to pursue disciplinary action;
- iii. the respective ages and roles of the complainant and respondent;
- iv. the risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- v. whether there have been other reports of misconduct by the respondent;
- vi. whether the respondent threatened further sexual violence or other violence against the complainant or others;
- vii. whether the report reveals a pattern of misconduct (*e.g.*, via illicit use of drugs or alcohol) at a given location or by a particular group such that there is an increased risk of future acts of sexual violence under similar circumstances;
- viii. whether the University possesses other means to obtain relevant evidence (*e.g.*, security cameras or personnel, physical evidence);
- ix. considerations of fundamental fairness and due process with respect to the respondent should the course of action include disciplinary action against the respondent; and
- x. the University's obligation to provide a safe and non-discriminatory environment.

The University will take reasonable steps to investigate and respond to the complaint consistent with the complainant's request to maintain anonymity or to not pursue an investigation, but its ability to do so may be limited based on the nature of the request by the complainant. Where the University determines that action should be taken that is inconsistent with the request of the complainant, the Title IX program officer will inform the complainant about the chosen course of action, which may include the University initiating disciplinary action against a respondent. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve disciplinary action against a respondent or disclosing the identity of the complainant.

### ***Clarity Regarding Points of Entry and Interim Measures***

A clear and consistent theme throughout our work this year has been the widely expressed need for clear and readily available information about sexual and gender-based harassment and violence, the resources available for support and the nature of the complaint resolution processes. The process and entry point(s) for filing a complaint, or just seeking information, should be clear, accessible and highly coordinated. It is possible that students will seek assistance from a trusted faculty or staff member who may have little knowledge of these issues. Accordingly, every member of the community must have a fundamental level of training and common knowledge about how to respond to and support a survivor of trauma and where to refer that individual for resources and assistance. Community members must also be aware of how to respond to someone who has been charged, where to refer that individual for resources and assistance, and what their obligations are for sharing a disclosure with the Title IX program officer. As described above, we

envision the Title IX Office playing a key leadership role in ensuring that training is effective and consistent across the University and is repeated on an annual basis.

We addressed this need in detail in our Interim Report, and much progress has already been made in this area. We do not need to repeat those recommendations and implemented action steps here, but there are several key points we wish to underscore:

- The points of entry which are **confidential** and legally privileged (such as Counseling and Psychological Services, Health Services, ordained chaplains) need to be clearly identified and communicated, including the limitations of what they can provide and do for members of the community seeking their assistance. We have sought to do so in our proposed University Policy (Appendix A).
- The points of entry which are **private** but not confidential (University offices other than those that are confidential and legally privileged, including the deputy Title IX coordinators, the Department of Public Safety, and others) need to be clearly identified and communicated, including what they can do and what they are obliged to do with information that is provided to them by members of the community. This is also defined in detail in the proposed University Policy (Appendix A).
- The **interim measures and accommodations** which can be implemented by the deputy Title IX coordinators need to be clear, unambiguous, appropriate for the individual circumstances of each situation, and enforceable. These are described in some detail in our Interim Report and in the proposed Policy. The University will offer reasonable and appropriate measures to protect a complainant and facilitate the complainant's continued access to University employment or education programs and activities. These measures may be both remedial (designed to address a complainant's safety and well-being and continued access to educational opportunities) or protective (involving action against a respondent). Remedial and protective measures, which may be temporary or permanent, may include no-contact directives, residence modifications, academic modifications and support, work schedule modifications, interim disciplinary suspension, suspension from employment, and pre-disciplinary leave (with or without pay). Remedial measures are available regardless of whether a complainant pursues a complaint or investigation under the Policy. The University will maintain the privacy of any remedial and protective measures provided under this policy to the extent practicable and will promptly address any violation of the protective measures. It will be important for information about these measures to be repeated in training and education programs to spread awareness throughout the community that they are readily available, even before an individual may choose to pursue an informal or formal resolution.

We have sought to address each of these points in the proposed University policy (Appendix A). It will be critical to ensure that they continue to be addressed, and refined as needed, in all ongoing communications, relevant policy statements, and training and awareness programs. In particular, mechanisms must be developed to ensure that graduate students and medical students understand that they are entitled to protections and interim measures under Title IX, and that such measures are made available whether or not they choose to pursue a formal complaint.



### ***What Happens When a Report is Received***

When a report is received by a deputy Title IX coordinator, for example from a responsible employee, it will immediately be reported to the Title IX program officer and an Initial Assessment will be conducted. The first step of the assessment will typically be a preliminary meeting between the potential complainant and the deputy Title IX coordinator. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full investigation interview. At this meeting, the potential complainant will be provided with information about resources, procedural options, and interim remedies and an opportunity to discuss the University's policies and procedures. At or after the preliminary meeting, the deputy Title IX coordinator will provide the potential complainant with written information about resources and options as required by the Violence Against Women Act of 1994.

This initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, an investigation may continue depending on a variety of factors, such as the complainant's wish to pursue disciplinary action, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation or its impact on the University community.

In the course of this assessment, the Title IX program officer and the deputy Title IX coordinator will consider the interest of the complainant and the complainant's expressed preference for the manner of resolution. Where possible and as warranted by an assessment of the facts and circumstances, the University will seek action consistent with the complainant's request.

As part of the initial assessment of the facts, the Title IX Office will do the following:

- assess the nature and circumstances of the allegation;
- address immediate physical safety and emotional wellbeing of the complainant;
- notify the complainant of the right to contact or decline to contact law enforcement and seek medical treatment (if relevant);
- notify the complainant of the importance of preservation of evidence;
- enter the report into the Title IX Office's University database;
- enter the report into the daily crime log, if it meets Clery requirements;
- assess the reported conduct for the need for a timely warning under the Clery Act;
- provide the complainant with information about on- and off-campus resources;
- notify the complainant of the range of interim measures;
- provide the complainant with an explanation of the procedural options, including informal and formal resolution;
- identify an adviser, advocate, and/or support person for the complainant;
- assess for pattern evidence or other similar conduct by respondent;
- explicitly consider the factors identified in the Office for Civil Rights' Questions and Answers on Title IX and Sexual Violence regarding a complainant's request for confidentiality;
- discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- explain the University's policy prohibiting retaliation.

If an assessment of the reported conduct determines that a timely warning is necessary under the Clery Act, one will be issued via email to the campus community. Timely warnings will also be posted on the Title IX Office website. Standard protocols and practices for timely warnings related to the University policy should be developed and promulgated broadly to the campus. The criteria and standards for issuing such warnings and related communications should be known and understood, including the process for informing individuals directly related to a particular case of the necessity and form of such communications. Where possible, the complainant will be notified before a timely warning is issued. In no case will any identifying information about the complainant be disclosed in the timely warning. In cases where time is of the essence and an emergency warning is required, the communication will not be shared in advance. The final responsibility for the issuance and content of a timely warning rests solely with the University.

### ***Responsibility and Authority of the Deputy Title IX Coordinator After a Report is Received***

Under the supervision of the Title IX program officer, deputy Title IX coordinators have clear and appropriate authority to investigate and resolve reports. This is not a replacement of formal complaint processes (described below), but a recognition of the fact that a wide spectrum of behaviors can constitute violations of proposed University policies and that complainants should have an opportunity to have their complaint addressed in a timely and equitable manner consistent with an in-depth understanding of the dynamics related to the prohibited conduct. Resolutions in such matters could include counseling, interim/permanent measures, disciplinary action (in the case of faculty or staff), or referral to formal University complaint procedures. Working with a deputy Title IX coordinator should not preclude formal processes at a later date nor will it be appropriate for all types of misconduct, but the deputy Title IX coordinators under the supervision and coordination of the Title IX program officer should have the authority to investigate complaints and seek resolutions appropriate to the circumstances. Our expectation based on experience at Brown and other institutions is that most matters involving faculty or staff as respondents will be appropriate for investigation and resolution by deputy Title IX coordinators under the supervision of the Title IX program officer.

Deputy Title IX coordinators also have the authority to bring a matter to a formal resolution process. When there is a serious threat to the University community, the deputy Title IX coordinator should be able to act on behalf of someone who experienced sexual misconduct but who cannot or will not themselves take the formal role of a complainant. In such situations, a deputy Title IX coordinator may do so when there is evidence that the University's policy has been violated and the deputy Title IX coordinator's intervention is needed to ensure that the matter reaches the appropriate resolution.

### ***Informal and Formal Resolution Processes***

It is clear from our discussions with students and others this year that the opportunity for an **Informal Resolution** to complaints at Brown is important. Even with the steps Brown has taken to reduce the traumatic nature of the hearing process (steps that will be taken even further with our recommendations below), a formal process can be intimidating, and even the perception of feeling obliged to engage in a formal process may deter individuals from reporting information. The deputy Title IX coordinators, under the supervision of the Title IX program officer and in

consultation with other offices as appropriate (e.g., Human Resources for complaints against staff, the Office of the Provost for complaints against faculty), should have the authority to resolve complaints in an informal manner. Informal resolutions should only be pursued when the complainant, having been fully informed of all available options, has explicitly made that choice and under no circumstances should an informal resolution preclude a complainant or a deputy Title IX coordinator from seeking a formal resolution at a later date. An informal resolution process will always be voluntary, and a complainant can ask to end the informal resolution process at any time. Information obtained during an informal resolution of a complaint may be used in a subsequent formal resolution investigation and hearing.

The nature of an informal resolution process will vary based on the circumstances and facts of the complaint, but will typically involve a limited to full investigation by the deputy Title IX coordinator. The focus of the process will be on providing a prompt and effective resolution of the complaint. Examples of outcomes of informal resolutions can include but are not limited to a no-contact agreement that shields a complainant from ongoing contact with an individual; taking that individual out of a class, lab or clinical setting; asking an administrative authority to speak to the individual to express serious concern about a behavior; reminding the individual of policies and definitions relating to prohibited conduct; offering counseling targeted to addressing sexual aggression; and reorganizing housing assignments so that students can feel safer. Informal resolutions can result in formal discipline in the case of faculty or staff. Unless by agreement of the respondent, the complainant and the University, informal resolutions cannot result in formal discipline of students. Records of informal resolutions will be kept in confidential University files, although disciplinary actions against faculty or staff will be recorded in the appropriate personnel file. Informal resolutions will be reported in general, non-identifying terms in the annual report of the Title IX Office.

For some limited types of alleged violations of the University Policy an informal resolution may include mediation. Mediation is not an appropriate option for cases involving a complaint of sexual assault and/or relationship and interpersonal violence, nor for circumstances involving severe misconduct behavior, for example. The Title IX program officer will have discretion to determine whether or not mediation is appropriate to the circumstances. Typically such a determination will be made only after an appropriate level of fact-gathering in order for the University to ascertain whether or not the facts of the case are appropriate for mediation.

**Formal Resolutions**, described in greater detail below, follow from the filing of a formal complaint by a complainant or a deputy Title IX coordinator. They will lead to a formal investigation and a hearing (in most cases), and can result in punitive outcomes (sanctions). It is our expectation, again based on experience at Brown and other institutions, that most cases deemed appropriate and necessary for formal resolutions will involve complaints between students.

### ***Investigation of the Report***

In some instances where an informal resolution is sought and in all cases where a formal resolution is sought an investigation of the complaint shall be conducted. The University has already implemented the near-term recommendation of the Task Force that trained, professional

investigators be utilized. We reinforce that recommendation and offer several additional recommendations related to their use and oversight.

Before detailing those recommendations, however, it is important to note that the Task Force did not reach consensus or conclusion on a critical point with regard to investigators, namely whether they should be external or internal to the University. External investigators, which are being used by Brown this semester, are typically local attorneys or others with experience and training conducive to investigating matters of these types. An external investigator can be retained on a case-by-case basis and may be perceived as having some level of independence from the University, which could minimize perceived conflict of interest. On the other hand, no matter how well trained and sensitive an external investigator is to these issues and the dynamics of the Brown campus, it is unlikely that they will ever be as attuned to campus culture — especially student culture — as an internal investigator who is a full-time University employee. This is particularly important given the essential component of community trust in the individuals identified to carry out this role. While trust can be gained — or lost — by an internal or an external investigator, many members of the Task Force felt an internal investigator who could get to know the Brown campus and be known by students, faculty, and staff would be a preferable model. An external investigator may also result in the process taking longer, and there are concerns with regard to appropriate levels of quality control and consistency across external investigators. Many other institutions have employed the investigative model, some with internal and some with external investigators. Some institutions pair an external investigator with an internal administrator/investigator to provide both familiarity with the institution and external objectivity and subject matter expertise. In addition, there is a broad range of conduct covered under the policy, and not every matter will need to be elevated to an investigator.

There is no clear direction as to which is most effective, and given Brown's limited experience to date we do not have enough information to make a clear recommendation. We do, however, stress that getting the investigator model and process right is among the most important steps the University can take toward building trust in its processes. The internal vs. external issue is but one element of getting it right. The Task Force strongly recommends that the Title IX program officer and the senior administration pay particularly close attention to these issues over the coming year and assess the experience with investigators on an ongoing basis. Doing so should include proactively seeking input and feedback from students and others who interact with investigators, both as cases are proceeding through the system and, in a formal assessment, when they have concluded. As part of the one-year assessment that we recommend elsewhere in this report, we recommend that after careful consideration and evaluation a decision be made to adopt either the external or internal investigator model or a hybrid of both, which may provide the University with the greatest level of flexibility to choose the investigative model most closely aligned with the needs of the parties and nature of the alleged conduct. It should be noted that overall the Task Force favored the internal investigator model, and felt very strongly that any investigator must understand and be sensitive to the context of the Brown community culture.

Regardless of whether the investigators are internal or external, the responsibility for selecting, vetting, supervising and evaluating them should reside in the Title IX Office under the leadership of the Title IX program officer. That is essential to the centralized control and oversight of the process and to ensuring that the individuals identified and retained to conduct these investigations

are appropriately trained and qualified, trauma-informed, and responsive to the culture and climate of the Brown campus.

An investigation shall be initiated when (a) a report of a violation of the policy is made and the complainant seeks a formal resolution; or (b) the Title IX Office determines that an investigation is necessary. When the determination is made that an investigation is necessary, the matter shall be referred to an investigator who will be responsible for the following steps:

- Interviewing and collecting statements from complainant and respondent.
- Collecting names of potential witnesses from complainant and respondent and seeking them out to interview and collect their statements.
- Deciding if there are any additional people who might have relevant information about the alleged conduct and seeking them out to collect statements. This might include individuals outside the Brown community, if deemed appropriate.
- Compiling information, including but not limited to physical evidence, from Public Safety, Health Services, hospitals, etc. Regarding any physical evidence, confidential information from Health Services or hospitals can only be obtained if the complainant chooses to sign a release.
- Producing a written report that sets forth all the known and relevant information and facts which will be delivered to both parties, the Title IX program officer and the chair of the University Title IX Committee (described below) and used, in consultation with the complainant, in determining the appropriate complaint resolution path. The investigator is not making a finding or recommended finding of responsibility, but rather gathering the facts and synthesizing the evidence for review.
- The investigator shall be aware of and sensitive to the privacy of the complainant and the respondent including any confidential information not relevant to the investigation, such as gender identity, gender expression or sexual orientation of the complainant or respondent and which the party does not wish to be revealed to others.
- At the conclusion of the investigation, the investigative report should be shared with the complainant and the respondent to review before it is finalized. The complainant and respondent should have the opportunity to offer additional comment, clarify information previously shared, suggest additional witnesses, or identify any other relevant information or evidence to assure the thoroughness and sufficiency of the investigation.

### ***Evidence – Relevance and Standards***

Evidence includes any facts or information presented in support of an assertion. Evidence is used in each stage of the processes we recommend as follows:

- The role of the investigator is to gather all such facts and information that constitute evidence and compile these into an organized written report which is in turn used and relied upon by others. The written report will not include a finding/recommended finding of responsibility.
- The role of the deputy Title IX coordinator, under the supervision of the Title IX program officer, is to review the evidence in the investigative report and, in consultation with the complainant who has been fully informed of all available options, pursue an informal

resolution or formal resolution. The University, through the Title IX program Officer, has the discretion to seek formal resolution based on the balancing of complainant agency and autonomy against campus safety and the risk of harm to others by not proceeding.

- The role of the chair of the University Title IX Committee (which is described in greater detail below), in consultation with the Title IX program officer and the appropriate deputy Title IX coordinator, is to review the evidence presented in the investigative report and to determine if the matter should be referred to the University Title IX Committee in accordance with the standards and criteria detailed below.
- The role of the University Title IX Committee is to review the evidence presented in the investigative report and to determine if an individual or individuals violated the University policy (and, if yes, to recommend a sanction to the appropriate decision-maker).

At each stage of the process, therefore, a level of judgment with regard to evidence is required. The spectrum of behaviors prohibited under the University Policy and the wide-ranging nature of the circumstances presented inevitably require the application of informed and reasoned judgment by highly trained individuals on each set of facts. There is no set of rules or criteria regarding each decision point that can effectively address all potential scenarios. That being said, we do believe it is important to establish high-level principles with regard to what evidence is relevant and what is not. We recommend the following to guide both the work of the investigator and the judgments of the Title IX Office and the University Title IX Committee:

- The investigator has the discretion to determine the relevance of any witness or other evidence to the finding of responsibility, and may exclude information in preparing the investigation report if the information is irrelevant, immaterial, or more prejudicial than informative.
- The investigator may also exclude statements of personal opinion by witnesses and statements as to general reputation for any character trait, including honesty. The investigator will not exclude direct observations or reasonable inferences drawn from the facts.
- It is important to remember that statements should not be character evaluations, as all parties will be presumed to have good character. In addition, how individuals present themselves in other contexts (*e.g.*, friendly, kind, and well-liked) has little probative value in evaluating whether particular conduct occurred. Furthermore, panels might be biased against complainants for character traits that have no bearing on whether or not they were victimized, or for respondents for character traits that have no bearing on whether or not they committed a particular act. We set forth further criteria regarding character evidence below.
- Information that does not directly relate to the facts at issue, but instead reflects upon the reputation, personality, qualities, or habits of an individual is character evidence and is not relevant to the determination of whether there is a Policy violation.
- An individual's character or reputation with respect to other sexual activity is not relevant and will not be considered as evidence. Similarly, an individual's prior or subsequent sexual activity is typically not relevant and will only be considered as evidence under limited circumstances. The investigator will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant. Circumstances where prior sexual history may be relevant include:

- *Pattern Evidence*: Evidence of an occurrence or occurrences of prohibited conduct so distinctive and so closely resembling either party's version of the alleged encounter as to tend to prove a material fact may be admissible. Where there is evidence of a pattern of similar prohibited conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a Policy violation by the respondent, this information may be deemed relevant to the determination of Policy violation or assigning of a sanction. The determination of relevance will be based on an assessment of whether the previous or subsequent incident was substantially similar to the conduct cited in the report or indicates a pattern of behavior and substantial conformity with that pattern. Where there is a prior finding of a Policy violation by the respondent for a similar act of prohibited conduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and assigning of a sanction.
- *Prior Sexual History Between the Parties*: Even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion. Where the parties have a prior sexual relationship, and the existence of consent is at issue, the sexual history between the parties *may* be relevant to help understand the manner and nature of communications between the parties and the context of the relationship, which may have bearing on whether consent was sought and given during the incident in question. However, this does not assume that the prior sexual history was consensual and this should be a factor in considering relevance.
- *Other*: Prior sexual history may be relevant to explain the presence of a physical injury or to help resolve other questions raised by the report.

In all stages of the process of both informal and formal resolutions, Brown will apply the preponderance of the evidence standard (more likely than not) when determining whether the University Policy has been violated.

### ***Review of Investigative Report and Decision to Proceed to University Title IX Committee***

As noted above, upon receipt of the investigator's report and a statement that a formal resolution is sought, the chair of the University Title IX Committee, in consultation with the Title IX program officer, will be responsible for determining whether or not the matter should be referred to the University Title IX Committee for hearing.

The role of the chair of the University Title IX Committee, in consultation with the Title IX program officer, is to review the evidence presented in the investigative report and make the following determinations:

- (1) Is the respondent a covered person as defined in Section III (To Whom This Policy Applies) of the University's Sexual and Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy?; and

(2) Do the facts set forth, if substantiated, constitute a violation of the University's Sexual and Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy?

If the answer of the chair to both questions is affirmative, the formal complaint will, in most cases<sup>1</sup>, be referred to the University Title IX Committee (whose recommended procedures are described in detail below).

The chair of the University Title IX Committee's decision-making discretion at this stage is and should be strictly limited to an assessment of whether or not the University Title IX Committee has appropriate jurisdiction over the complaint. If that is the case and a formal resolution is sought or deemed necessary, the matter will be referred to the University Title IX Committee. The chair is not responsible at this stage for determining responsibility, assessing credibility, or otherwise making factual findings.

If the chair of the University Title IX Committee determines that a matter should not be referred to the University Title IX Committee, the chair will explain that decision in writing to the individual(s) who brought forth the complaint. That individual(s) can appeal, in writing, the decision of the chair to a three-member review panel drawn from the membership of the University Title IX Committee. The review panel's responsibility will be strictly limited to reviewing the investigator's report and the written decision of the chair. The review panel will have the ability to affirm or reverse the decision of the chair. The decision of the review panel will be final.

### ***The University Title IX Committee: Role, Procedure and Responsibility***

The University Title IX Committee is responsible for conducting the formal resolution of a complaint of prohibited conduct which is alleged to constitute a violation of the University's Sexual and Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy. The Committee will be supported, staffed and trained by the Title IX Office; will have jurisdiction over all complaints of violations of the proposed University policy; and will be the venue for formal resolution of those complaints. This is essential to ensure adequate levels of training and experience for community members hearing these matters. The committee members will receive extensive annual and ongoing training, coordinated and overseen by the Title IX Office, on all matters related to their charge and these issues.

This training will include specific and substantive training related to all aspects of the University's policy, including the impact and effect of trauma, the University's definition of consent, what constitutes prohibited conduct, the dynamics of sexual and gender-based harassment and violence, relationship and interpersonal violence, and stalking, and the symptoms and effects of incapacitation, specifically incapacitation caused or facilitated by alcohol and/or other drugs. In addition, committee members will receive appropriate training in the evaluation of medical evidence, including evidence regarding the use of alcohol and/or other drugs for the purpose of incapacitating an individual. When such evidence is being considered in a hearing the committee

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<sup>1</sup> While a formal resolution process is the most likely next step at this stage of the process, an informal resolution may still be appropriate based on the circumstances and the wishes of the complainant. If an informal resolution is pursued at this stage that does not preclude the complainant from seeking a formal resolution at a later date.



should be provided with an outside expert who is able to advise and answer questions regarding the specific type of medical evidence being considered. The committee members will also receive training on all content prescribed by the U.S. Department of Education with respect to Title IX and VAWA.

As stated previously, we are not attempting to prescribe every aspect of the committee's charge or operations. Rather, our recommendations are a framework from which the appropriate detailed operations of the committee can be constructed. The important and essential principles underlying that framework include the following:

#### *The Committee*

- The committee should comprise faculty, staff and students representative of the breadth and diversity of the University community. An appropriate, organized and consistent appointment process for members, overseen by the chair of the Committee and the Title IX program officer, should be developed. It is important to ensure that committee members are neutral, fair, impartial and free of actual bias or conflict of interest.
- The committee should be chaired by a tenured member of the faculty who is granted course relief or other appropriate measures to ensure the time and training appropriate to the responsibility of the position.

#### *The Hearing Panel and Participants*

- Hearing panels of three members from the committee for each case should be formed by the chair appropriate to the case (*e.g.*, an undergraduate student should always be a member on a case involving undergraduate students). In the selection of committee members appropriate to the case, the chair will consider whether there is any prior or potential relationship between the committee members and any of the parties/witnesses to assure neutrality and remove the possibility of conflict of interest.
- The chair of the committee shall preside over the hearing panel as a non-voting member. The chair shall be responsible for the administration of the hearing process, including determinations of admissible and non-admissible evidence, appropriate and inappropriate lines of questioning, and the overall decorum and conduct of the proceedings. The chair shall have authority and oversight of all participants in the hearing process, including attorneys who may be present at the request of the complainant and/or respondents, as well as procedural matters and decisions leading up to the hearing.
- In the event a student is charged with a violation of the Code of Student Conduct that is ancillary and related to the complaint of prohibited conduct, the University Title IX Committee may also make findings as to responsibility and recommend a sanction, if applicable, to the ancillary charge. In other words, it is not necessary for two hearings to take place – one with Student Conduct Board and one with the University Title IX Committee – when there is a potential offense not covered by the Policy arising from or related to the same set of facts. Both can be heard by the University Title IX Committee in such circumstances.
- University Title IX Committee hearings are not legal proceedings. While attorneys on behalf of complainants and respondents should be permitted to attend, if requested by the

complainant or respondent, they should not be allowed to participate to any extent other than advising their client directly and privately. No accommodations, including scheduling of hearings, should be made for attorneys based on their schedules or other commitments that unduly delay the process. In general, any communications between attorneys and the University should be restricted to those with the Office of the General Counsel, although attorneys do and should communicate as necessary with the adviser to a complainant or respondent. Attorneys have no role in determining or influencing the outcome or administration of the University process, and there should be no discussions between the University and attorneys (nor, to the extent the University can discourage it, between attorneys of the different parties) in that regard.

- Complainants and respondents should both be entitled to be accompanied and assisted by an adviser of their choosing. A pool of trained advisers shall be maintained and supported by the Title IX Office. There is no requirement, however, that the adviser be chosen from this pool.
- The appropriate deputy Title IX coordinator and the Title IX program officer shall attend each hearing in its entirety, including closed sessions and deliberations, and be available to answer questions and clarify information regarding the case, the investigative report, and the University policy as requested by the chair.

#### *The Investigative Report*

- The hearing panel should receive, in advance, the report of the investigator. At the same time the report should be made available to the complainant and the respondent. The hearing panel members are responsible for reading and understanding the report prior to the hearing. Before the hearing the panel members will meet with the chair and the Title IX program officer for refresher training and an opportunity to identify issues of concern related to the case.
- Complainants and respondents can choose to present a written statement in response to the investigative report. Both complainants and respondents should also be afforded the opportunity to request that the hearing panel hear from one or more witnesses on their behalf (excluding character witnesses). The chair should have complete discretion to approve or deny those requests. The presumption is that the investigator has identified and interviewed all relevant witnesses and supplied the information necessary for the hearing panel to render its decision and recommend sanctions. It will be rare for witnesses to appear before the hearing panel, although the hearing panel itself should also be able to ask a witness(es) to appear before it if doing so would be helpful to the prompt and equitable resolution of the matter.

#### *The Hearing Process and Deliberations*

- The hearing panel will convene in closed session with the investigator. The complainant and respondent will not be present in the hearing room but should be able to observe and hear the proceedings from remote locations. The hearing panel may ask the investigator questions related to his or her report.
- The complainant and respondent should be granted the opportunity to appear before the hearing panel if they wish and make an oral statement. The complainant and respondent

will not be in the hearing room together, unless both parties wish to do so, but each will be able to observe and hear the proceedings from remote locations. The hearing panel may ask questions. Again, the presumption is that the information necessary to render a decision and arrive at sanction recommendations is in the investigative report, so extended testimony or questioning is unnecessary. The hearing itself should be relatively short, consistent with our overall goal (as detailed in our [Interim Report](#)) to reduce the traumatic nature of the process through the use of investigators and other measures designed to mitigate the burden on community members throughout the process.

- The hearing panel will convene in closed session to deliberate and render a decision, by majority vote, regarding whether or not the respondent has violated the University policy by a preponderance of the evidence. No member of the hearing panel will be permitted to abstain.

#### *The Sanction Recommendation and Decision*

- If the hearing panel determines that the respondent is responsible for one or more violations of the University Policy, it will then deliberate as to an appropriate sanction. Both the complainant and respondent should have the opportunity to submit a written impact/mitigation statement related to the charges in question for consideration by the hearing panel (this can be done as part of the investigation or preparation for the hearing). The hearing panel will be provided information of any prior violations of University policy by the respondent and may consider that information in reaching a sanction recommendation (this would be information in addition to any pattern evidence already provided in the investigative report, as described above under *Evidence*). Consistent with our near-term recommendations, the hearing panel should consider a prescribed list of factors in recommending an appropriate sanction. Those factors include, among others, the impact of the conduct on the complainant or University community, the nature and violence of the conduct, and the maintenance of a University environment free from harassment and discrimination. The hearing panel may also consult with the deputy Title IX coordinator or Title IX program officer to understand how similar violations have previously been sanctioned by the University.
- The chair will prepare the hearing panel's written decision and rationale, including a finding of responsibility or non-responsibility, and, if applicable, the sanction recommendation and rationale. The report of the hearing panel will be provided to the Title IX Office, the complainant and the respondent, and the appropriate decision-maker in the case of a sanction recommendation (the vice president for campus life for students, the provost for faculty, the vice president for human resources for staff). The complainant and respondent will have an opportunity to submit an additional written response to the report to the decision-maker before a sanctioning decision is made.
- After the sanction recommendation is delivered to the appropriate decision-maker, he or she can modify the sanction, but not the finding of responsibility. If the decision-maker wishes to modify the recommended sanction he or she will meet with the hearing panel members before doing so. If the decision-maker modifies the recommended sanction (up or down) after that meeting he or she will communicate that decision and rationale in writing to the hearing panel, the Title IX Office, and the complainant and the respondent.

### *The Appeals Process*

- The complainant and respondent will have the right to appeal decisions of the hearing panel and/or the decision-maker based on the limited grounds of substantial procedural error that materially affected the outcome and/or new evidence not reasonably available at the time of the hearing. Each party will be given the opportunity to respond in writing to any appeal submitted by the other party. All information considered by the appellate authority will be shared with both the complainant and the respondent.
- Appeals will be heard by a three-member appeal panel drawn from the membership of the University Title IX Committee (members who have had no prior involvement in the matter being appealed). The appeal panel's responsibility will be strictly limited to determining if there was substantial procedural error that materially affected the outcome and/or new evidence not reasonably available at the time of the hearing. If either or both are found by the appeal panel, the appeal will be granted. If the appeal is denied, the matter is closed.
- If the appeal is granted with regard to the finding of responsibility, the matter will be returned to the same panel which originally heard the matter for reconsideration. If the appeal is granted with regard to the sanction, the matter will be returned to the appropriate decision-maker for reconsideration. The appeal panel will give the hearing panel or the decision-maker instructions regarding the nature and extent of its reconsideration. The hearing panel or the decision-maker will act promptly to reconsider the matter consistent with those instructions. Following reconsideration, the finding of the hearing panel or the sanction imposed by the decision-maker will be final and not subject to further appeal.
- As is currently the case in the Code of Student Conduct, after the appeal process is exhausted, a power of review should remain with the president of the University. At her or his sole discretion the president may review the matter and affirm, reverse, or modify the decisions and/or change the sanction. There will be no appeal from a decision rendered by the president.

Under the current Code of Student Conduct in a case involving a charge of sexual misconduct, the complainant may be accompanied by a support person in addition to an adviser of the complainant's choosing. The support person is present only for the purpose of providing support to the complaining witness and does not participate in the hearing. While we firmly believe that should continue to be the case in the University Title IX Committee process we are recommending, we noted that there is no similar provision for a support person for a respondent. In some respects, in the streamlined hearing process we propose the need for a support person for either the complainant and the respondent may be less necessary, but that is not a judgment we are prepared to make at this stage. We do believe that the procedure should be equitable and that both parties should be entitled to the same levels of support. We recommend that the Title IX program officer review this matter further in developing the final processes and procedures to implement these recommendations.

The Task Force recommended a number of near-term changes in our Interim Report regarding clarifying and reducing timelines, reducing the distressing nature of the University process, and sanctioning, separation, and appeal. Most of those recommendations have been implemented and are relevant to and should be incorporated in the detailed process and procedure for the proposed University Title IX Committee as well. Given the importance of sanctioning consistency and

criteria in particular, however, we did want to repeat some of those recommendations here. The priorities we established with regard to sanctioning include the following:

- *The University has set a clear expectation that when respondents are found responsible and the sanction includes separation, he or she will be immediately removed from campus residentially and (depending on circumstances) either severely restricted in their movements on campus (e.g., only able to attend classes and labs) or barred completely during the entirety of the appeal filing period and appeal process. This has been done administratively and should be incorporated in the University Title IX Committee process.*
- *The University Title IX Committee needs to be clear regarding the period of separation from the University. If a student is separated for two semesters, the semester in which the case is heard and resolved should not count as one of those two semesters.*
- *When a respondent is found responsible for sexual misconduct the University Title IX Committee will consider the following factors in determining an appropriate sanction recommendation:*
  - Whether or not the circumstances suggest there is an increased risk of the respondent committing additional acts of sexual violence or other violence (whether there have been other sexual violence complaints about the same respondent, whether the respondent has a history of violence, whether the respondent threatened further sexual violence or other violence against the student or others);
  - Whether or not the circumstances suggest there is an increased risk of future acts of sexual violence under similar circumstances (whether the circumstances reveal a pattern of perpetration, for instance via illicit use of drugs or alcohol, at a given location or by a particular group);
  - Whether or not the sexual violence was perpetrated with a weapon or had other aggravating considerations;
  - The expected date of completion of the complainant (if the respondent is separated from the University but may be eligible for readmission at some point, will the complainant still be a student when that occurs?);
  - The impact of the conduct on the complainant, including consideration of the wishes of the complainant with regard to the sanction that should be imposed on the respondent (and the complainant must be given an opportunity, which a complainant can choose to exercise or not, to express those wishes in a verbal or written victim impact statement). The respondent must be given a similar opportunity to express a verbal or written mitigation statement;
  - The impact of the conduct on the University community, and the need for any sanctions or remedies to eliminate, prevent, or address the existence of any hostile environment caused in the University community;
  - The maintenance of a safe and respectful environment conducive to learning, working, and living;
  - Protection of the University community; and
  - Any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

## *Importance of Privacy*

Privacy of the processes contemplated in this report is consistent with the University's mission of treating individuals with dignity and respect. All members of the University community who participate in this process in any manner — including administrators, investigators, witnesses, hearing panel members, etc. — should be made aware of and acknowledge in writing that they understand and agree to abide by the University's policy expectations of privacy of these matters. This should include the confidentiality of investigative reports and other information — oral or written — obtained during any stage of the process, including both informal and formal resolutions. Complainants and respondents, however, are not required to sign a confidentiality agreement. While the University can encourage them to maintain the privacy of the proceedings, the University does not place restrictions on the complainant's or respondent's ability to discuss these matters in a manner that does not constitute harassment or retaliation as defined under University policy. It should be noted that in setting these expectations the Task Force recognizes and affirms the importance of individuals speaking to others, in private and in public, regarding their personal experience and that doing so is the foundation of a long tradition of effecting positive change on the Brown campus.

The purpose of privacy protections is to encourage parties and witnesses to participate in these proceedings and share all the information they have to offer, which is essential to reaching a fair outcome. If parties or witnesses fear that their participation in the process could be revealed to others outside of the process, then concerns about reputation, social tension, or retaliation may cause them to keep silent. In short, if the University cannot protect privacy, it cannot promptly and equitably resolve violations of its Policy. Every member of the University community should recognize that breaches of privacy erode the community's trust in the process and impair its effectiveness.

Complainants and respondents are entitled to an adviser and a personal support individual with whom they can discuss all aspects of the proceedings, and the University understands that parties will seek support and advice from their families. We expect, however, that parties will impress on their advisers and families the importance of maintaining privacy.

In some circumstances, a person who fails to preserve the privacy of the process could face University disciplinary action. Specifically, if a member of the Brown community breaches privacy in order to retaliate against a person for his or her participation in a proceeding — as a complainant, respondent, or witness — the University has the authority to hear a complaint of retaliation and recommend an appropriate sanction. University policy regarding privacy in these matters should also reference the fact that breaching privacy could expose individuals to civil or criminal liability.

#### IV. OTHER RECOMMENDATIONS

We have a number of other important recommendations to offer relevant to our charge:

- Provisions should be made by the Title IX Office and the Office of the General Counsel to maintain a current and active list of local attorneys willing to represent, *pro bono*, complainants and/or respondents who are unable to afford legal counsel. Proactive efforts need to be made to ensure all complainants and respondents are aware of this opportunity, and provisions made for each party to acknowledge their understanding in writing.
- Standard protocols for investigations conducted by investigators and internal University offices, including the Department of Public Safety, need to be promulgated by the Title IX Office and followed. This can include the audio or video recording of interviews, but we also recognize that doing so must be with the consent of the individual, especially a survivor of sexual violence, and that such recording can be an impediment to reporting and may not be appropriate in all cases. The primary goal of standard protocols, practices and training should be to ensure that investigations are thorough, fair, comprehensive and reliable.
- Standard protocols and practices for the administration of medical exams related to sexual violence (including forensic examinations and toxicology testing) must be developed and promulgated broadly to the campus. Closely related to this is the need for standard protocols regarding the interface and coordination with hospital emergency rooms and other health care providers attending to Brown students who have experienced sexual assault. Guidelines for caring for Brown students at Brown's affiliated hospitals should be developed that ensure students are familiar with Brown's support services and resources, and that consider specific concerns about confidentiality. Significant progress has already been made on these recommendations by the director of University Health Services, and we strongly recommend that this work be completed in close consultation with the Title IX program officer as soon as possible and certainly no later than the beginning of the 2015-2016 academic year (and clearly communicated to the campus when complete).
- The Title IX Office should develop training, support and incentives for community members to serve as advisers to complainants and respondents. This is a critical unmet need as the number of individuals willing to serve in these roles is quite small. The work involved can be time-consuming and stressful, although as with other aspects of the process we expect that our overall recommendations will reduce the burden on advisers as well. However, the role of the adviser is critical and the pool needs to be deeper and broader – especially with regard to underrepresented groups on campus – for both complainants and respondents. We recommend that an appropriate amount of resources be made available to the Title IX program officer immediately to develop plans and incentives to address this need.
- Similar needs do and will exist with regard to training, support and incentives for community members to serve as members of the University Title IX Committee and for the deputy Title IX coordinators and associated Title IX team members. While we do not

have specific findings with regard to what those needs will be, we are quite sure they will need to be met and the Title IX program officer will need resources — including time and money — to develop and sustain the appropriate and necessary mix of training, support and incentives.

- A written form should be developed by the Title IX Office advising complainants and respondents of all rights and responsibilities, including University policy and procedures, interim measures, informal and formal complaint resolution processes, and their ongoing right to file a criminal complaint and University support for doing so. Complainants and respondents should be provided with copies and a clear explanation of the form in their initial respective meetings with a deputy Title IX coordinator and asked to sign a copy acknowledging that they understand everything that has been explained to them. The form and its substance should be referred to throughout the process to ensure no misunderstandings arise or are left unaddressed.
- Annual reporting by the Title IX Office is critical to raising awareness and building trust. The Title IX program officer, in collaboration with the deputy Title IX coordinators and others offices (including Public Safety, Student Life, Health Services, CAPS, and others) should develop a plan and protocol for what data will be tracked and reported publicly on an annual basis. It will be particularly important to identify and consistently utilize appropriate demographic information across offices to ensure the University has an accurate assessment of the impact of sexual and gender-based violence and harassment across different student, faculty and staff populations. The first Title IX Office annual report should cover data collected during the 2015-2016 academic year.
- We believe there is an opportunity to develop an appropriate supervision, support and counseling services program for respondents post-adjudication. The Community Integrity Program at Princeton University — an eight-week confidential program for students found responsible for sexual misconduct who return to campus following a sanction — is particularly promising. We recommend the Title IX Office explore this model further and determine over the course of the next academic year if a similar program should be implemented at Brown.
- A topic which arose at some of our public outreach events but which we did not examine in detail is anonymous reporting. Nothing prevents an anonymous report from being made currently and in some instances such a report may be incorporated into the Clery Act annual report, but in general the University cannot act on an anonymous report that does not provide sufficient factual information and that presents challenges with regard to compliance with Title IX. On the other hand, other institutions have developed methods for anonymous reporting to aid in understanding and assessing campus culture as well as identifying potential repeat or serial offenders. Some institutions use an online anonymous reporting platform that allow the Title IX program officer to communicate directly with the reporter to provide information about resources and options, but allow a complainant to maintain anonymity. This is an important topic that requires further investigation and thought, and we recommend that the Title IX Office do so, in consultation with the advisory committee recommended below, over the course of the next year.



- The University should take advantage of opportunities to collaborate with and learn from external law enforcement and advocacy agencies, in particular [Day One](#). As an immediate action step we recommend that the president appoint an appropriate senior officer to represent the University on the state-wide task force on adult sexual assault currently being formed under the leadership of Day One, the Providence Police Department, and other Providence and Rhode Island leaders.
- Our work this year has made clear to us that a standing oversight committee of students, faculty and staff is necessary to maintain and sustain momentum, accountability, community input, and campus engagement in these issues. We recommend that the president charge, form and appoint such a body to serve as an oversight and advisory committee for the Title IX Office. This committee should be in place prior to the start of the 2015-2016 academic year.
- Finally, given the significant and substantial changes that have already occurred this year and that we anticipate will continue over the course of the coming year, we believe that a near-term assessment is appropriate. Such a review does not need to be as involved or as time-consuming as the work of this Task Force. Rather a focused review in the spring of 2016 should take place to assess and report to the community on the status of these recommendations and progress to date. Responsibility for conducting the review could appropriately be given to the standing oversight committee recommended above, in close coordination and with the support of the Title IX Office. It may also be appropriate to include some members of the Task Force in that review next spring. Subsequently, we recommend a formal review of this area take place no less than every three years.

## V. CONCLUSION

It has been a privilege for all of us to serve on the Sexual Assault Task Force. We hope that our work and our recommendations will prove helpful in the months and years ahead in moving Brown University forward in a productive manner. We remain, as we said in our Interim Report, inspired by the care and respect students, faculty and staff have shown as they gathered together and reflected upon these fraught issues. We offer this report in that same spirit of care and respect.

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## **VII. APPENDICES**

- A. Proposed Sexual and Gender-Based Harassment, Sexual Violence, Relationship and Interpersonal Violence and Stalking Policy
- B. Letter to the Sexual Assault Task Force from President Paxson

**BROWN UNIVERSITY****SEXUAL AND GENDER-BASED HARASSMENT, SEXUAL VIOLENCE, RELATIONSHIP AND  
INTERPERSONAL VIOLENCE AND STALKING POLICY**

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**I. STATEMENT OF NON-DISCRIMINATION**

Brown University does not discriminate on the basis of sex, race, color, religion, age, disability, status as a veteran, national or ethnic origin, sexual orientation, gender identity, or gender expression in the administration of its educational policies, admission policies, scholarship and loan programs, or other school administered programs.

**II. STATEMENT OF PURPOSE**

Brown University is committed to establishing and maintaining a safe learning, living, and working environment where healthy, respectful, and consensual conduct represents the campus cultural norm. To that end, this policy prohibits Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Relationship and Interpersonal Violence, Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct, and Stalking (together, “**Prohibited Conduct**”). It also prohibits Retaliation against an individual for making a good faith report of conduct prohibited under this policy and defines prohibited relationships of a sexual or intimate nature between individuals where one individual has power or authority over another. These prohibited forms of conduct are unlawful, undermine the character and purpose of Brown University, and will not be tolerated.

Brown University adopts this policy with a commitment to: (1) promoting a safe, welcoming and inclusive campus culture; (2) preventing Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Relationship and Interpersonal Violence, Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct, Stalking, Retaliation, and Prohibited Relationships; (3) fostering a community in which such conduct is not tolerated; (4) cultivating a climate where all individuals are well-informed and empowered to report Prohibited Conduct; and (5) identifying the standards by which violations of this policy will be evaluated. This policy defines Prohibited Conduct; outlines available resources, reporting and complaint options available to students, faculty, staff, and third parties; and references applicable investigative and disciplinary procedures and external reporting mechanisms. Brown University will take prompt and equitable action to eliminate Prohibited Conduct, prevent its recurrence, and address its effects. The University’s procedures for addressing Prohibited Conduct are grounded in fairness and support for all parties, recognition of the dynamics involved in Prohibited Conduct, and an understanding of reactions to traumatic experiences. Brown University also conducts regular and ongoing prevention, awareness, and training programs for students, faculty, and staff to facilitate the goals of this policy.

It is the responsibility of every member of the Brown University community to foster an environment free of Prohibited Conduct. All members of the community are encouraged to take reasonable and prudent actions to prevent or stop an act of Prohibited Conduct. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law

enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive responsibility will be supported by Brown University and protected from Retaliation.

Brown University adopts this policy recognizing that individuals who experience Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Relationship and Interpersonal Violence, Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct, and Stalking often experience additional impacts caused by trauma. While no individual responds to trauma in precisely the same way, there are numerous psychological and health consequences associated with such experiences that have both immediate and long-term impact on one's life. Individuals from underrepresented groups on campus may navigate a more complex set of challenges following an experience of Prohibited Conduct. Gender identity, gender expression, sexual orientation, race, ethnicity, ability, and religious affiliation (and intersecting components of identity) may influence how an individual responds to that experience and/or encounters barriers to seeking support from family, peers, and/or campus and community resources. This policy and the investigative and disciplinary procedures, prevention and awareness programs, and support services provided by Brown University intentionally recognize, affirm and are informed by experience, ongoing training, and understanding of trauma.

This policy also incorporates fair and impartial processes which include balanced and equitable access for all participants in University proceedings. The processes include procedural protections that ensure notice and multiple meaningful opportunities to participate, present information and be heard as to the merits of any report or complaint under this policy. The University also provides balanced support and resources for all parties before, during and after an investigation and resolution under this policy.

This policy is designed to comply with applicable legal requirements including Title IX of the Education Amendments of 1972 ("Title IX"); relevant provisions of the Violence Against Women Reauthorization Act of 2013 ("VAWA"); Title VII of the Civil Rights Act of 1964 ("Title VII"); the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"); and other applicable federal and Rhode Island state laws.

### III. TO WHOM THIS POLICY APPLIES

This policy applies to all Brown University students, including students in the College, the Graduate School, the Alpert Medical School, the School of Public Health, and the School of Professional Studies (**all collectively known together as "Students"**); those employed by Brown University, including faculty, affiliates, and visiting faculty, postdoctoral fellows, and all staff (including all exempt and non-exempt, bargaining unit, and senior administrative positions), as well as those physicians and health scientists who are not employed by Brown University but have Brown University faculty, affiliate, postdoctoral, or house staff appointments for the purpose of teaching and/or research in the Division of Biology and Medicine (together "**Faculty and Staff**" or "**Employees**"); contractors, vendors, or other third parties contractually obligated to Brown University ("**Third Parties**"); and visitors or guests of Brown University ("**Invitees**"); **all collectively together known as "Covered Persons."** This policy pertains to acts of Prohibited Conduct committed by Covered Persons when:

- (1) the conduct occurs on Brown University premises; and/or
- (2) the conduct occurs in the context of a Brown University employment, education, or research program or activity, including but not limited to Brown University-sponsored study abroad, research, internship, mentorship, summer session, or other affiliated programs or premises; and/or
- (3) the conduct occurs outside the context of a Brown University employment, education, or research program or activity, but (i) has continuing adverse effects on Brown University premises or in any Brown University employment, education, or research program or activity or (ii) occurs in close proximity to Brown University premises and is connected to hostile conduct on Brown University premises.

Other forms of discrimination, including discrimination based on race, color, age, status as a veteran, religion, disability, and national or ethnic origin as well as any other form of sex-based discrimination not covered by this policy, are addressed by the relevant Civil Rights and Non-Discrimination policies for students, faculty and staff. This policy supersedes any conflicting information contained in those policies with respect to the definitions or procedures relating to Prohibited Conduct. Any individual who has a question about which policy applies in a specific instance can contact Brown University's Title IX Program Officer. [URL]

The School of Professional Studies maintains separate but related policies with regard to Brown University Pre-College Programs, including policies specific to program participants who may be minors.

#### **IV. APPLICABLE PROCEDURES UNDER THIS POLICY**

Any individual, referred to as a Complainant, regardless of affiliation with Brown University, may make a report of Prohibited Conduct under this policy. There is no time limit on reporting violations of this policy, although Brown University's ability to respond may diminish over time, and Respondents (the individuals accused of violating the policy) may no longer be affiliated with Brown University. If the Respondent is no longer affiliated with Brown University (*e.g.*, the report is made after a student has left or graduated or an employee no longer works for Brown), the University will still provide reasonably available remedial measures, assist the Complainant in identifying external reporting options, and may take other appropriate action, such as a retroactive transcript or personnel file entry or barring an individual from campus.

The specific investigative and disciplinary procedures and standards that will apply once a report or complaint is received can be found on the Title IX Office website. [URL] These procedures are trauma-informed and guided by principles of fairness and respect for both a Complainant and Respondent.

Brown University applies the Preponderance of the Evidence standard (more likely than not) when determining whether this policy has been violated.

## V. SANCTIONS

A Student or Employee determined by Brown University to have committed an act of Prohibited Conduct in violation of this policy is subject to disciplinary action, up to and including permanent separation from Brown University. Third Parties or Invitees who violate this policy may have their relationship with Brown University terminated and/or their privilege of being on Brown University premises withdrawn. Brown University reserves the right to take action against any individual or organization that commits an act of Prohibited Conduct outside the scope of this policy.

If a Student withdraws from Brown University after the University has begun an investigation but prior to disciplinary charges being filed, an entry will be made on their transcript that indicates the Student has withdrawn with an investigation pending. If a Student withdraws after disciplinary charges have been filed but prior to resolution, an entry should be made on their transcript that indicates the Student has withdrawn with disciplinary charges pending.

## VI. TITLE IX PROGRAM OFFICER

The Title IX Program Officer serves as Brown University's Title IX coordinator, with the assistance and support of Deputy Title IX Coordinators for students (medical, graduate and undergraduate), faculty and staff. Under Title IX of the Education Amendments of 1972:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

The Title IX Program Officer is charged with monitoring compliance with Title IX; providing education, training, and notifications; tracking and reporting annually on all incidents in violation of this policy; and coordinating Brown University's investigation, response, and formal and informal resolution of all reports and complaints under this policy. The Title IX Program Officer is available to meet with any individual to discuss this policy, the accompanying procedures, or the enforcement of Title IX at Brown University.

The names and contact information for Brown's Title IX Program Officer and Deputy Title IX Coordinators can be found [on-line](#) and follow below [Insert Contact Information].

Concerns about Brown University's application of Title IX, VAWA, Title VII, the Clery Act, and applicable Rhode Island state laws under this policy may also be addressed to the United States Department of Education, Clery Act Compliance Division; the United States Department of Education, Office for Civil Rights, at [OCR@ed.gov](mailto:OCR@ed.gov) or (800) 421-3481; or the Rhode Island Commission for Human Rights.

## VII. PRIVACY AND CONFIDENTIALITY

Brown University is committed to protecting the privacy of any individual involved in a report under this policy. With any report under this policy, Brown University will make reasonable efforts to protect the privacy interests of a Complainant, a Respondent and/or other individuals involved

in a manner consistent with the need for a careful assessment of the underlying facts and circumstances and reasonable steps available to eliminate the reported conduct, prevent its recurrence, and address its effects, including ensuring campus safety.

#### **A. Privacy and Confidentiality**

Privacy and confidentiality have distinct meanings under this policy.

**Privacy:** Privacy generally means that information related to a report of Prohibited Conduct will be shared with a limited circle of individuals who “need to know” in order to assist in the active review, investigation, resolution of the report, and related issues. All Brown University employees who are involved in Brown University’s Title IX response receive specific training and guidance about safeguarding private information in accordance with applicable laws.

The privacy of Student education records will be protected in accordance with Brown University’s policy for compliance with the Family Educational Rights and Privacy Act (FERPA). The privacy of an individual’s medical and related records generally are protected in the United States by the Health Insurance Portability and Accountability Act (HIPAA), excepting health records protected by FERPA. Access to personnel records is restricted in accordance with Brown University policy. Laws in other relevant jurisdictions may also provide privacy protections depending on where the Prohibited Conduct occurred.

**Confidentiality:** Confidentiality means that designated campus or community professionals cannot reveal information shared by an individual to any other person without express permission of the individual, or as otherwise permitted or required by law. Those campus and community professionals who have the ability to maintain confidential relationships include health care providers in Brown University Health Services, mental health professionals in Counseling and Psychological Services (CAPS), the Sexual Harassment and Assault Resources and Education (SHARE) Advocate(s) in Health Services, and ordained clergy, all of whom normally have privileged confidentiality that is recognized by Rhode Island state law. These individuals are prohibited from breaking confidentiality unless (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 18; or (iv) as otherwise required or permitted by law or court order. Laws in other relevant jurisdictions may also provide confidentiality protections depending on where the Prohibited Conduct occurred. Anonymous statistical information regarding Clery reportable offenses may be reported by campus confidential resources in accordance with the Clery Act.

#### **B. Employee Responsibility to Report Allegations**

It is important to understand the different responsibilities of Brown University Employees who respond to disclosures, reports and complaints or otherwise become aware of incidents of Prohibited Conduct. There are three general classifications of individuals on campus with

whom an individual can discuss an incident of Prohibited Conduct, and the respective ability of these categories of individuals to maintain a Complainant's confidentiality differs:

(1) **Confidential Resources** (individuals with legally protected confidentiality). Confidential Resources can maintain the confidentiality of a Complainant's disclosures and will not share any information with Brown University, subject to the exceptions listed above.

(2) Employees designated as **Responsible Employees**. While able to maintain an individual's privacy, Responsible Employees are required to immediately share all known details of incidents of Prohibited Conduct with the Title IX Program Officer. "**Responsible Employee**" means those designated employees in a leadership or supervisory position, or who have significant responsibility for the welfare of Students or Employees. Responsible Employees include the Title IX Program Officer; Vice Presidents and Deans; Members of the President's Cabinet; Deputy Title IX Coordinators; Public Safety Officers; Assistant and Associate Deans and Directors and Coordinators in Residential Life, the Office of Student Life, Student Activities, the Dean of the College, the Graduate School, the Alpert Medical School, the School of Public Health, the School of Professional Studies, Human Resources, and Athletics; Academic Department Chairs; Academic Institute, Center and Program Directors; Directors of Graduate Studies; faculty and staff serving as undergraduate academic advisors, including first-year and sophomore and concentration advisors; Community Directors; and Athletic Team Head and Assistant Coaches. Students serving in certain positions of leadership or authority, such as Residential Peer Leaders, and Meiklejohn Advisors, are also considered Responsible Employees and receive appropriate training within the context of their specific programs.

(3) All other **Employees** are encouraged to share information with the Title IX Program Officer. Unless designated above, faculty who do not exercise administrative responsibilities outside of the classroom and employees who do not exercise supervisor or managerial responsibilities are not considered Responsible Employees.

### C. Clery Act Reporting

Pursuant to the Clery Act and VAWA, Brown University includes statistics about certain offenses in its daily crime log and Annual Security Report and provides those statistics to the United States Department of Education in a manner that does not include any identifying information about persons involved in an incident. This includes numbers of incidents (with no detail or personally identifying information) disclosed to Confidential Resources. Brown University will also issue a timely warning to the community for reports of Clery-defined conduct that constitutes a serious and ongoing threat, as outlined in the Annual Security Report.

## VIII. RESOURCES, REPORTING AND FILING A COMPLAINT

Brown University offers trained professional resources, informed by experience and understanding of trauma, for Students and Employees, whether as Complainants or Respondents, to provide support and guidance throughout the initiation, investigation, and resolution of a report of



Prohibited Conduct. For comprehensive information on emergency assistance; hospitals; on-campus, community, and available support with academics, housing, and work, please refer to the Title IX Office website. [URL]

Brown University recognizes that deciding whether to make a report of Prohibited Conduct and/or choosing how to proceed, including but not limited to filing a complaint, are personal decisions. The following principles, values and definitions guide Brown University policy and action:

- Brown University will make every effort to prioritize and support the choices of an individual(s) making a report and/or filing a complaint.
- Brown University will make every effort to fully educate and inform an individual(s) regarding all choices and options available to them, including resources and processes inside and outside the University.
- An individual may choose to seek assistance, support or guidance from a Confidential Resource on campus or in the community. A disclosure to a Confidential Resource does not constitute a report to the University.
- **Making a Report of Prohibited Conduct** involves telling someone, verbally or in writing, about what occurred. An individual may choose to make a report: (1) to Brown University according to the Designated Reporting Options detailed below; and/or (2) to external law enforcement.
- An individual can choose to make a report to external law enforcement at any time and doing so does not preclude the individual from making a report to the University. Both processes can be pursued if an individual chooses to do so. Brown University encourages individuals to report an incident which may be a violation of Rhode Island State Law to external law enforcement. Prompt reporting to external law enforcement is important in a criminal prosecution.
- Making a report to Designated Reporting Options or to law enforcement does not require an individual to decide whether to request a specific course of action. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time with support and assistance.
- Resources, including interim remedial measures, are always available to support a Complainant regardless of the course of action chosen.
- Brown University will make every effort to respect a Complainant's autonomy in making the determination regarding how to proceed.
- The University will balance a Complainant's request for confidentiality or anonymity, that no investigation occur, or that no disciplinary action be sought against its obligation to ensure campus safety and maintain an environment free from discrimination and harassment.
- In limited circumstances, typically where a risk of imminent harm to an individual or others or a threat to the health and safety of the campus is determined to exist, Brown University may be required to take immediate action upon receipt of a report of Prohibited Conduct. In such circumstances, the reasons and steps the University will take will always be explained to the individual(s) making the report.
- In most circumstances upon receipt of a report of Prohibited Conduct the Complainant and/or the University will make a decision to initiate an investigation and/or pursue a

Brown University Informal or Formal Resolution. As stated above, a Complainant may choose to make a report to external law enforcement at any time.

The following resources are available at Brown University to individuals wishing to seek information and support, make a report and/or file a complaint:

**A. Confidential Resources**

**Any individual with questions, concerns or lack of clarity regarding what to do in response to an incident of Prohibited Conduct, including how or whether to report the conduct, should contact and consult a Confidential Resource.**

Confidential Resources for Students include Counseling and Psychological Services (CAPS); University Health Services (UHS); the Sexual Harassment and Assault Resources and Education (SHARE) Advocate(s); and ordained chaplains. For a complete list and contact information for the Brown University Confidential Resources for Students, see the Title IX Office website [URL].

Confidential Resources for Faculty and Staff include the Faculty/Staff Assistance Program [URL] and ordained chaplains. For a complete list and contact information for the Brown University Confidential Resources for Faculty and Staff, see the Title IX Office website [URL].

Confidential Resources are also available in the surrounding community. Additional information is available on the Title IX Office website [URL].

**B. Designated Reporting Options**

Brown University requires Responsible Employees and strongly encourages others who becomes aware of an incident of Prohibited Conduct to report the incident or file a complaint by contacting one of the following Brown University resources:

Title IX Program Officer [URL]
Deputy Title IX Coordinators for Faculty, Staff, Undergraduate, Graduate and Medical Students [URLs]
Office of Student Life [URL]
Human Resources [URL]
Department of Public Safety [URL]

**Time Frame for Reporting:**

There is no time limit on reporting or filing complaints of violations of this policy, although, as explained above, Brown University’s ability to respond may be limited with the passage of time, and Respondents may no longer be affiliated with Brown University. Brown University encourages prompt reporting.

Regardless of when or where an incident occurs, Brown University will work with a Complainant to determine appropriate resources and support, to identify external reporting options, and to take any protective measures that may be available.

#### **Amnesty for Personal Ingestion of Alcohol or Other Drugs:**

Brown University generally will offer amnesty to a reporting Student, whether as a Complainant or a witness, for the personal ingestion of alcohol or other drugs in violation of Brown University Code of Student Conduct.

#### **C. Assessment Upon Receipt of a Report**

Consistent with the procedures that accompany this policy, upon receipt of a report or a complaint the Title IX Program Officer, in consultation with a small interdepartmental team, will conduct an **Initial Assessment** of the following: the Complainant's immediate and ongoing safety and well-being; the incident or conduct at issue; any risk of harm to the parties, any other individuals, or the broader campus community; the Complainant's desired course of action; the existence of severe, persistent or pervasive conduct, including evidence of a pattern, use of a weapon or other predatory conduct; and the necessity for any interim measures or accommodations, including the necessity of a timely warning pursuant to the Clery Act, to protect the safety of the Complainant, any other individuals, or the campus community.

The Title IX Program Officer or Deputy Title IX Coordinator will also offer the University's immediate support and assistance; inform the Complainant of the importance of seeking medical treatment and emotional support; explain the importance of obtaining and preserving forensic and other evidence; inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order; inform the Complainant about University and community resources, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures; explain the University's prohibition against Retaliation; inform the Complainant of the right to file a complaint to initiate an investigation and/or disciplinary action.

Brown University understands the impact of a report of Prohibited Conduct on both a Complainant and Respondent and expects all individuals to provide truthful and accurate information. An individual who knowingly provides false and/or malicious information may be subject to discipline under this policy. This provision does not apply to reports or complaints of Prohibited Conduct made in good faith, even if those reports or complaints are not later substantiated.

Brown University also strongly encourages anyone who becomes aware of an incident of Prohibited Conduct which may constitute a violation of Rhode Island State Law to report the incident to local law enforcement and will provide support, resources and assistance to those who do so. All Confidential Resources and Designated Reporting Options are able to provide or direct community members to this support.

#### **D. Interim Measures and Accommodations**

Upon receipt of a report – oral, written or however communicated - involving a Student or Employee Complainant, Brown University will take and/or make available reasonable and appropriate measures to protect the Complainant and the Complainant’s access to Brown University employment or education programs and activities, which may include interim remedial and protective measures before the final outcome of an investigation. These measures may be both remedial (designed to address a Complainant’s safety and well-being and continued access to educational opportunities) or protective (involving action against a Respondent). Remedial and protective measures and accommodations, which may be temporary or permanent, may include counseling and emotional support, no contact and communication directives, residence modification, academic schedule modification, academic accommodations or assistance, escort, voluntary leave of absence, interim suspension, restrictions on campus activities, work schedule modifications, and other immediate remedies as reasonable and appropriate.

Reasonable and appropriate remedial measures are available for Student or Employee Complainants regardless of whether an investigation under the applicable procedures is pursued. Brown University will also provide reasonably available accommodations for a Third Party Complainant, provided that the accommodations are within the scope of that individual’s relationship to Brown University. In addition, Brown University will provide similar measures and accommodations for Student or Employee Respondents where reasonable and appropriate under the circumstances. Brown University will maintain the privacy of any accommodations or protective measures provided under this policy to the extent practicable and permitted by law and will strictly enforce any violation of a protective measure. The Title IX Program Officer has the discretion to ensure the appropriateness of any interim measure based on all available information, and is available to meet with a Complainant or Respondent to address any concerns about the provision of interim measures.

#### **IX. PROHIBITED CONDUCT UNDER THIS POLICY**

Conduct under this policy is prohibited regardless of the sexual orientation, gender, gender identity, or gender expression of the Complainant or Respondent. Prohibited Conduct includes the following specifically defined forms of behavior: Sexual or Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Relationship and Interpersonal Violence, Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct, Stalking, Retaliation, and prohibited relationships.

Whether a Respondent has violated this policy is determined by a preponderance of the evidence based on all of the available facts and circumstances, including but not limited to: statements of the Complainant and Respondent; statements by any witnesses to the alleged incident(s); documentary or physical evidence; the presence or absence of corroborating information; and relevant information about pre-and post-incident behavior and/or actions.

## A. Sexual or Gender-Based Harassment

**Sexual Harassment** is any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, electronic, or otherwise, when one or more of the following conditions are present:

- (i) Submission to or rejection of such conduct is either an explicit or implicit term or condition of an individual's employment or advancement in employment, evaluation of academic work or advancement in an academic program, or basis for participation in any aspect of a Brown University program or activity (*quid pro quo*); and/or
- (ii) Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual (*quid pro quo*); and/or
- (iii) Such conduct has the purpose or effect of unreasonably interfering with an individual's learning, working, or living environment; in other words, it is sufficiently severe, pervasive, or persistent as to create an intimidating, hostile, or offensive learning, working, or living environment under both an objective and subjective standard (*hostile environment*).

**Gender-Based Harassment** includes harassment based on sex or gender, sexual orientation, gender identity, or gender expression, which may include acts of intimidation or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature.

In evaluating whether a *hostile environment* exists, the University will consider the totality of known circumstances, including, but not limited to:

- The frequency, nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and
- Whether the conduct implicates concerns related to academic freedom or protected speech.

Examples of conduct that may constitute Sexual or Gender-Based Harassment under the *quid pro quo* or hostile environment analysis include but are not limited to:

- Sexual Assault, Sexual Exploitation, Relationship Violence, Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct, or Stalking as defined by this policy;

- Physical conduct, including unwelcome touching or sexual advances within the working, living, or learning environment;
- Persistent personal attention from one colleague to another in the face of repeated rejection of such attention;
- Verbal conduct, including lewd or sexually suggestive comments, jokes, or innuendoes, or unwelcome comments about an individual's sexual orientation, gender, gender identity, or gender expression; or
- Written conduct, including letters, notes, or electronic communications, containing comments, words, jokes, or images that are lewd or sexually suggestive or relate in an unwelcome manner to an individual's sexual orientation, gender, gender identity, or gender expression.

## **B. Sexual Assault**

Sexual assault is having or attempting to have sexual contact with another individual by force or threat of force, manipulation, and/or coercion without consent, or where that individual is incapacitated and incapable of consent (*see Section X below for definition of consent*).

Sexual contact includes but is not limited to:

- Sexual intercourse (anal, oral, or vaginal), including penetration with a body part (*e.g.*, penis, finger, hand, or tongue) or an object, or requiring another to penetrate himself or herself with a body part or an object, however slight; or
- Sexual touching, including, but not limited to, intentional contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body.

## **C. Sexual Exploitation**

Sexual Exploitation refers to specific forms of Prohibited Conduct that involve purposeful and non-consensual use of another individual's nudity or sexuality, excluding behavior that constitutes one of the other specifically defined forms of conduct.

Examples of Sexual Exploitation include but are not limited to:

- Voyeurism (such as watching or taking pictures, videos, or audio recordings of another person in a state of undress or of another person engaging in a sexual act without the consent of all parties);
- Disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without the person's consent;
- Exposing one's genitals to another person without consent;
- Prostituting another individual; or
- Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge and consent.

#### **D. Relationship and Interpersonal Violence**

Relationship and Interpersonal Violence includes any act of violence or threatened act of violence against a person who is or has been involved in a sexual, dating, domestic, or other intimate relationship with that person, or against a person with whom the Respondent has sought to have such a relationship.

Relationship and Interpersonal Violence includes, but is not limited to, Sexual Assault, Sexual Exploitation, Stalking, and Physical Assault. Physical Assault is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Prohibited Conduct under this definition includes, but is not limited to, physical, sexual, emotional, economic and/or psychological actions or threats of action, including threatening to reveal personal and confidential information (including, but not limited, to information regarding one's gender identity and/or sexual orientation), that are intimidating, frightening, terrorizing or threatening. Prohibited Conduct under this definition includes threats of violence or harm to one's self, one's family member(s) or friends, and/or one's pet.

#### **E. Stalking**

Stalking occurs when a person engages in a course of conduct toward another person under circumstances that would cause a person to fear bodily injury or experience substantial emotional distress.

Course of conduct means two or more instances including but not limited to unwelcome acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Substantial emotional distress means significant mental suffering or anguish.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

#### **F. Provision of Alcohol and/or Other Drugs for Purposes of Prohibited Conduct**

The provision of alcohol and/or other drugs to an individual for the purpose of committing or facilitating Prohibited Conduct under this policy is also Prohibited Conduct. Such behavior includes, but is not limited to, provision of a drug and/or alcohol for the purpose of facilitating severe intoxication and incapacitation, provision of a drink or food which contains alcohol and/or other drugs without the knowledge of the individual to whom it is being provided, and/or other illicit actions taken with the intention of impairing the senses, judgment, and/or physical and mental ability of another person. An individual does not have to engage in sexual activity with another person to be found responsible for the prohibited provision of alcohol and/or other drugs. The act of providing or facilitating the provision of alcohol and/or other drugs

for the purpose of causing another individual to be unable to consent to sexual activity is, in and of itself, Prohibited Conduct.

### **G. Retaliation**

Retaliation means any adverse action or threat taken or made against an individual, including through third parties and/or legal counsel, for making a good faith report of Prohibited Conduct or participating in any investigation or proceeding under this policy. Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy, such as seeking services, receiving protective measures and accommodations, and/or reporting Prohibited Conduct. Retaliation includes maliciously and purposefully interfering with, threatening, or damaging the academic and/or professional career of another individual before, during or after the investigation and resolution of a report of Prohibited Conduct under this policy. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate.

## **X. RELATED DEFINITIONS: CONSENT, COERCION OR FORCE, AND INCAPACITATION**

### **A. Consent**

Consent is the affirmative and willing agreement to engage in a specific form of sexual contact with another person. Consent requires an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely chosen to engage in a sexual contact.

Consent cannot be obtained through: (1) manipulation; or (2) the use of coercion or force; or (3) by taking advantage of the incapacitation of another individual.

Silence, passivity, or the absence of resistance does not imply consent, and relying solely on non-verbal communication may result in a violation of this policy. It is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and verbally clarifies the other's willingness to continue.

Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must cease. Prior consent does not imply current or future consent; even in the context of an ongoing relationship, consent must be sought and freely given for each instance of sexual contact.

An essential element of consent is that it be freely given. Freely given consent may not be present or possible in relationships of a sexual or intimate nature between individuals where one individual has power, supervision or authority over another. More information, policy and guidance regarding such relationships can be found in Section XI below.



In evaluating whether consent was given, consideration will be given to the totality of the facts and circumstances, including but not limited to the extent to which a Complainant affirmatively uses words or actions indicating a willingness to engage in sexual contact, free from manipulation, intimidation, fear, or coercion; whether a reasonable person in the Respondent's position would have understood such person's words and acts as an expression of consent; and whether there are any circumstances, known or reasonably apparent to the Respondent, demonstrating incapacitation or fear. Evaluations of consent will also take into account the dynamics related to Prohibited Conduct and reactions to traumatic experiences.

The individual who initiates the sexual contact bears the burden of assuring that consent has been freely sought and given before proceeding with the sexual act.

## **B. Coercion or Force**

Coercion is verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to compel someone to engage in sexual contact.

Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual contact.

## **C. Incapacitation**

An individual who is incapacitated lacks the ability to make informed, rational judgments and cannot consent to sexual contact. Incapacitation is defined as the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act.

Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred or incomprehensible speech, vomiting, unsteady gait, combativeness, or emotional volatility. Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have been aware of the Complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the Respondent's position. Being intoxicated, impaired or incapacitated by alcohol or other drugs is never an excuse for committing Prohibited Conduct and does not diminish one's responsibility to obtain informed and freely given consent.

## **XI. PROHIBITED SEXUAL OR INTIMATE RELATIONSHIPS**

Relationships of a sexual or intimate nature between individuals where one individual has power, supervision or authority over another are prohibited by Brown University.

In the academic context, Prohibited Conduct under this policy often involves the inappropriate personal attention by an individual who is in a position to exercise professional power over another individual. This could include an instructor who determines a student's grade or who can otherwise affect the student's academic performance or professional future; a tenured professor whose evaluation of a junior colleague can affect the latter's professional life; or a coach who can affect the participation of a student-athlete. Taking advantage of one's power, supervision or authority over another is unacceptable and may create a hostile environment for the individuals involved and the community at large that seriously undermines the atmosphere of trust essential to the academic enterprise.

Amorous relationships that might be appropriate in other circumstances have inherent dangers when they occur between an instructor or officer of the University and a person for whom he or she has a professional responsibility (*i.e.*, as instructor, advisor, evaluator, supervisor, coach, mentor). Implicit in the idea of professionalism is the recognition by those in positions of authority that in their relationships with students, faculty or staff there is an element of power. It is incumbent upon those with authority not to abuse, nor to seem to abuse, the power with which they are entrusted.

As defined in Section X, an essential element of consent to sexual contact is that it be freely given. Freely given consent may not be present or possible in relationships of a sexual or intimate nature between individuals where one individual has power, supervision or authority over another.

Any member of the Brown University community with questions, concerns or doubts about the appropriateness of an actual, anticipated or suspected relationship should consult with the appropriate Dean, Deputy Title IX Coordinator, and/or the Title IX Program Officer.

### **Prohibited Sexual or Intimate Relationships with Students**

No Faculty, Staff or Employee (as defined in Section III) shall request or accept sexual favors from or engage in a romantic, sexual or intimate relationship with any Brown University undergraduate student.

No faculty, graduate or medical student, medical resident or fellow, postdoctoral fellow or associate, teaching or research assistant or fellow, proctor, mentor, or undergraduate teaching assistant shall request or accept sexual favors from or engage in a romantic, sexual or intimate relationship with any undergraduate, graduate or medical student who is enrolled in a course or section taught by that individual or otherwise subject to that individual's academic supervision. Academic supervision includes teaching, advising, supervising research, serving on a dissertation or other academic committee, grading, mentoring, coaching, overseeing and/or having influence upon funding and/or academic

progress, and/or otherwise occupying a position of influence or power over a student's academic program.

### **Relationships Between Individuals of Different University Status**

While not expressly prohibited, amorous relationships between faculty, staff, graduate and/or medical students of different University status that occur outside the direct instructional and supervisory context can also lead to difficulties. In a personal relationship where no current professional responsibility exists, the individuals involved should be sensitive to the possibility that he or she may unexpectedly be placed in a position of responsibility for that individual's instruction, supervision or evaluation. This could involve being called upon to write a letter of recommendation or to serve on a promotion or selection committee involving the individual. In addition, one should be aware that others may speculate that a specific power relationship exists even when there is none, giving rise to assumptions of inequitable academic or professional advantage for the individual involved.

Although graduate students, medical students, teaching or research assistants or fellows, proctors, mentors, and undergraduate teaching assistants may be less accustomed than Faculty, Staff or Employees to think of themselves as being in a position of greater authority by virtue of their professional responsibilities, they should recognize that they might be viewed as more powerful than they perceive themselves to be. In addition to the prohibited relationships defined above, graduate and medical students and undergraduate teaching assistants and other students in leadership and supervisory positions should be aware of the dynamics and risks of relationships with a power differential. Relationships between individuals in the same academic department or program are particularly prone to such risks. Individuals with questions or concerns about the appropriate nature of an actual, anticipated or suspected relationship should consult with the appropriate Dean, Deputy Title IX Coordinator, and/or the Title IX Program Officer.

Even when both parties have consented at the outset to the development of such a relationship, it is the person in the position of greater authority who, by virtue of his or her special responsibility and educational mission, will be held accountable for unprofessional behavior.

### **Consensual Relationships Between Faculty, Staff and Employees**

In cases where a consensual relationship exists between Faculty, Staff and Employees who occupy inherently unequal positions of authority, it is important that the person in the position of greater authority does not exercise any supervisory or evaluative function over the other person in the relationship. Accordingly, the person in the position of greater authority must notify their supervisor(s) and Human Resources to evaluate the situation and ensure that alternate supervisory or evaluative arrangements are put in place.

## **XII. ACADEMIC FREEDOM AND INTEGRITY**

Brown University is committed to the principles of free inquiry and expression. Vigorous discussion and debate are fundamental to this commitment, and this policy is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so. Offensiveness of conduct, standing alone, is not sufficient for the conduct to constitute Prohibited Conduct. The conduct must be sufficiently serious to interfere with an individual's ability to participate in employment or educational programs and activities from both a subjective and objective perspective.

Behavior that meets the criteria of Prohibited Conduct is not a proper exercise of academic freedom and may not be legally protected expression. Such behavior compromises Brown University's integrity and tradition of intellectual freedom and will not be tolerated.

## **XIII. CONFLICT OF INTEREST**

The [Brown University Conflict of Interest and Commitment Policy](#) and its related guidelines apply to all members of the Brown community and to all processes and procedures, including all investigative and disciplinary procedures in place to support and implement this policy. A conflict of interest may take many forms but of particular concern with regard to this policy is when a conflict arises when a member of the Brown community might be able to use the authority of their Brown position to influence a University decision, action or outcome with regard to the implementation and enforcement of this policy, including associated investigative and disciplinary procedures. It shall be the responsibility of all members of the Brown community involved in any aspect of a report of Prohibited Conduct (including but not limited to investigations, formal and informal resolutions, disciplinary procedures and appeals) to read the University's Conflict of Interest and Commitment Policy and its related guidelines and to disclose potential or actual conflicts as they arise to Title IX Program Officer. The Title IX Program Officer will have responsibility for administering the Conflict of Interest and Commitment Policy with respect to this policy and its associated procedures and to take appropriate steps to eliminate any potential, perceived or actual conflicts of interest.

## **XIV. PREVENTION AND AWARENESS PROGRAMS**

Brown University is committed to the prevention of Prohibited Conduct through education and awareness programs. Incoming Students and new Faculty and Staff receive prevention and awareness programming as part of their orientation, and all Students and Faculty and Staff receive ongoing training and related programs on an annual basis. For a description of Brown University's Prohibited Conduct prevention and awareness programs, see the Title IX Office website [URL].

## **XV. VIOLATIONS OF RHODE ISLAND STATE LAW**

Behavior that violates this policy also may violate the laws of the local jurisdiction in which the incident occurred and subject a Respondent to criminal prosecution by the presiding authority. Under Rhode Island State Law, sexual assault is defined as follows:

First Degree Sexual Assault (RIGL § 11-37-2): A person is guilty of first degree sexual assault if he or she engages in sexual penetration with another person, and if any of the following circumstances exist: (1) The accused, not being the spouse, knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless. (2) The accused uses force or coercion. (3) The accused, through concealment or by the element of surprise, is able to overcome the victim. (4) The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation.

Second Degree Sexual Assault (RIGL § 11-37-4): A person is guilty of second degree sexual assault if he or she engages in sexual contact with another person and if any of the following circumstances exist: (1) The accused knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless. (2) The accused uses force or coercion. (3) The accused engages in the medical treatment or examination of the victim for the purpose of sexual arousal, gratification, or stimulation.

Third Degree Sexual Assault (RIGL § 11-37-6): A person is guilty of third degree sexual assault if he or she is over the age of 18 years and engages in sexual penetration with another person over the age of 14 years and under the age of consent, 16 years of age.

Stalking (RIGL § 11-59-2): Any person who (1) harasses another person; or (2) willfully, maliciously, and repeatedly follows another person with the intent to place that person in reasonable fear of bodily injury, is guilty of the crime of stalking. "Harasses" means a knowing and willful course of conduct directed at a specific person with the intent to seriously alarm, annoy, or bother the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

Cyberstalking and Cyberharassment (RIGL § 11-52-4.2): Whoever transmits any communication by computer or other electronic device to any person or causes any person to be contacted for the sole purpose of harassing that person or his or her family is guilty of a misdemeanor.

Covered Persons studying, working, or engaging in other Brown University activities outside the State of Rhode Island are governed by the applicable laws regarding sexual assault and other criminal offenses implicated by this policy.

Behavior that violates this policy also may subject a Respondent to civil or criminal liability.

## Appendix B



BROWN UNIVERSITY

OFFICE OF THE PRESIDENT  
Box 1860 • Providence, RI 02912 • USA  
T 401.863.2234 • F 401.863.7737

Christina H. Paxson

March 18, 2015

Dear Sexual Assault Task Force members;

As you know, the recent sexual assault and date-rape-drug case has prompted a great deal of thought about how Brown's policies on sexual assault can be improved. On Monday, I met with a group of students (several of whom are on the Task Force) to discuss recommendations, endorsed by the Undergraduate Council of Students, that speak to specific issues raised by this case. I thought it would be valuable to briefly summarize my views for the Task Force in the hope that it will help guide your deliberations, recognizing that it is quite likely that you have already discussed these issues.

A number of recommendations seem to me to be especially straightforward:

1. That the surreptitious provision of a "date rape" drug that results in or places an individual at risk of sexual assault should be considered sexual misconduct.
2. That a process should be developed for DPS and/or the external investigator to record interviews in investigations of sexual misconduct, provided this can be done in a way that does not deter people from coming forward or giving complete information.
3. That decision-makers in cases of sexual misconduct receive substantial training in the concept of consent, with specific attention to situations of incapacitation by date-rape drugs.
4. That the policy codifies the threshold of evidence needed to move a case forward to a Student Conduct Board hearing.
5. That every attempt is made to provide students with access to date-rape drug testing that meets forensic standards, recognizing that this will require the active cooperation of area hospitals.

During my meeting with the students, I expressed my mixed feelings regarding Brown's potential role in providing legal guidance to respondents and/or complainants. I believe all students should be on a level playing field, and that respondents especially should have legal advice when their alleged behaviors could also be the subject of criminal investigations. Some families have the means to hire attorneys and others do not, and Brown should help students procure legal help when it is needed. That said, I am troubled by the increasing "legalization" of the entire student conduct process, which can result in delays and increase the adversarial nature of the experience for complainants and respondents. I encourage the Task Force to discuss how we can make the process fair while keeping it what it is meant to be—not a court of law, but a

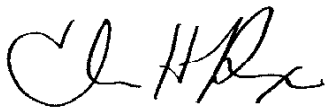
University-based method of assigning responsibility for sexual misconduct violations, remedying harms to survivors, and preventing the reoccurrence of future incidents to increase the safety of the campus.

We also discussed the possibility of a requirement that the University allow survivors of sexual assault to provide input into “timely warnings” issued to the campus. Although I understand and am sympathetic to the idea behind this recommendation—and I agree that whenever possible survivors should be given advance notice that a warning will be released—I am concerned that a policy of this type could interfere with the University’s legal responsibilities under the Clery Act.

The incident this year raised the issue of possible conflict of interest regarding the family relationship of a respondent to a Brown trustee. Brown’s conflict of interest policy already clearly specifies that members of the Brown community (which includes members of the Brown Corporation) may not make or try to influence University decisions that affect a family member. If your report gets to this level of detail, it may be appropriate to specify that (a) all decision-makers in sexual misconduct cases will be reminded of Brown’s Conflict of Interest policy during training; and (b) procedures may be altered, as necessary, to address potential conflicts of interest.

I would like to raise a final issue that I think is important, and which the Task Force may not have considered. Under the current (new) policy, an investigator is charged with compiling a detailed written report that includes the entirety of the evidence in a case. Each report would necessarily be given to the complainant, respondent and members of the hearing panel. Releases of all or portions of these reports by any of the parties involved would be a gross violation of the confidentiality of the process and could cause great harm to all individuals involved. I understand that, currently, students involved in misconduct hearings sign confidentiality statements, although these have not been routinely enforced. With the movement to comprehensive written reports, I think it is essential that we emphasize the need for confidentiality and begin to consistently enforce confidentiality provisions, however difficult that may be.

I look forward to receiving your final recommendations, and I thank you for your work  
Sincerely,

A handwritten signature in black ink, appearing to read 'C. H. Paxson', written in a cursive style.

Christina H. Paxson