

Student and Presidential Committee on Sexual Assault Recommendations to Proposed Sexual Assault Policy

On April 3rd, 2014, the 2014 SPCSA Symposium on Sexual Assault assembled over 150 members of the Dartmouth community. The Student and Presidential Committee on Sexual drafted these recommendations for the new proposed sexual assault policy from the community feedback collected at 2014 Symposium.

The following recommendations represent both the views of the SPCSA and of the larger Dartmouth community:

- 1. Create separate and defined processes for requests to review *the finding of responsibility* and requests to review *the sanctioning decision*.** (Section IV. The College's Response Procedure.D.6)

The purpose of this policy is obsolete if both the review of the finding of responsibility and of the sanction can be overturned at the “sole discretion” of the Dean of the College. While the Dean of the College may review the sanctioning decision, with the interest of the community in mind, we believe it should be *required* that the review of the finding of responsibility be give to an Investigator.

- a. Grant the Dean of the College the sole discretion to decide whether the request for review states an allowable ground for review.**

We agree with the current policy that requests for review of both the findings and the sanction be submitted to the Dean of the College.

- b. Mandate that if the Dean of the College grants a review, the decision *the findings* be handled by a qualified alternative investigator.**

The decision to use the investigator should not be “at the discretion of” the Dean of the College but “required of” the Dean of the College. Furthermore, the Dean of the College should not be able to “affirm or modify the Investigator's or Sanctioning Panel’s findings” if you want this policy to be taken seriously. Considering that the investigator process was created in order to allow experts to make qualified decisions, it would invalidate the process entirely to allow the Dean of the College to be able to overturn expert findings on review.

- c. Allow a review of *the sanction* to go to the Dean of the College.** Considering that the Dean of the College is partly responsible for the sanction to begin with, it makes sense for the Dean to be responsible for reviews of this nature.

d. Rewrite Section IV.D.6 to clarify and delineate the bounds of the Dean of the College’s discretion in the review process.

Currently, the section is unclear as to the extent and limits of the Dean of the College’s discretion in the review process.

2. Remove “purposeful.” (*Section IV. The College’s Response Procedure.D.4.g.1*)

We advocate for a policy that penalizes taking advantage of anyone who is incapacitated, regardless of whether or not the incapacitation was “purposeful.” Allowing this word to remain in the document would result in a failure to fully capture the nature and reality of sexual assault. Community members expressed concern that it will create a dangerous loophole that burdens investigators to show “purpose” of the perpetrator, which is difficult to prove.

3. Conclude each investigation and the subsequent sanctioning process within 60 days of report of sexual assault. (*Section IV. The College’s Response Procedure.C*)

Community members feel it is paramount that the timeline for investigation be expedited. Considering the negative academic and emotional impact an investigation can have, the entire process should not be prolonged across multiple academic terms.

4. Allow individuals who are not members of the Dartmouth community to act as observers in the process. (*Section V. Student and Student Organization Expectations and Rights.E*)

We believe reporting and responding students have the right to have a supportive observer present that is unaffiliated with the College. While we recognize this opens up the process to legal scrutiny, we believe that reporting students reserve the right to call on their support system, which may include their parent or family member, during this time. To ensure the observers can best support the responding student, observers should be informed in advance of their duties and limitations, and of the consequences of violating regulations.

5. Add sexual harassment, intimate partner violence, stalking, and other forms of power-based violence to this policy.

These types of sexual misconduct belong to the same category of sexual violence as rape. We believe that for the same reasons that the College has pursued experts for cases of rape, cases of sexual harassment, intimate partner violence, stalking, and other forms of power-based violence *must* use this same improved process.

- 6. Require all investigators to operate from Dartmouth as a base during investigations.** *(Section IV. The College's Response Procedure.D.1.c)*

The community considers it important for the work of the investigator to be done on site, as opposed to on the phone or by email. We recognise that the reporting student may be abroad or off campus, but we maintain that the work of the investigator can be best done on campus, where students and campus experts will be available.

- 7. Create protocols for third party reporting.** *(Section IV. The College's Response Procedure.D)*

Community members feel that given the research showing the prevalence of *repeat perpetrators* of sexual assault, the College has a responsibility to create protocols for third party reporting. This would take the onus off reporting student, protect the community and likely increase reporting.

- 8. Create a protocol to allow tandem investigations.** *(Section IV. The College's Response Procedure.D)*

This would allow the testimony of multiple reporting students to be considered simultaneously if the reports that refer to one individual are made within a reasonable period of time (say of 10 days.) This serves the purpose of incentivising reporting and allowing reporting students to collude evidence in the case of sexual assault.

- 9. Use pseudonyms before the sanctioning panel.** *(Section IV. The College's Response Procedure.D.4)*

Given the size of the community and the detachment of students from sanctioning process, we advocate for pseudonyms to be used. We believe that in an unbiased process the use of a name is not a necessary part of the sanctioning procedure.

- 10. Use the language of “expulsion” instead of “separation” in the policy.** *(Section I. Introduction; Section IV. The College's Response Procedure.D.4; Section IV. The College's Response Procedure.D.4. g.1)*

The current policy uses both words interchangeably. We believe the word should be consistent. We suggest only using the word “expulsion” to avoid confusion and to demonstrate the severity of the violation and the sanction.

- 11. Educate the investigators about Dartmouth-specific campus problems with the help of student experts.** *(Section IV. The College's Response Procedure. D.1.c)*

To best understand student accounts of events, investigators must understand Dartmouth culture. For example, “pong” is a college jargon that has a Dartmouth-specific meaning. SPCSA is willing to create a packet explaining Dartmouth-specific language and cultural practices in order to aid investigators in understanding student testimonies.

12. **Include a clear definition of “retaliation” as stated in the policy. Change “may constitute a violation” to “will constitute a violation” in order to make expectations clear.** (*Section II. Definitions.F*)

The ambiguous current wording of “may” does not reflect the severity of the action. The wellbeing of the reporting student should be the focus of the new policy. As such, the new policy should firmly define “retaliation” and demonstrate that such an action will constitute a violation.

13. **Adjust the use of “bias” as a caveat for harsher sanctioning.** (*Section IV. The College’s Response Procedure.D.4.d/g*)

Acts of sexual violence are inherently biased because they are predicated on a victim’s gender, gender expression, and perceived or actual sexual orientation. As such, we are concerned about the use of “bias” in the policy. Please clarify the relevant difference between bias based on gender and bias based on something else if you include this in the final policy.

Signed,

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The Student and Presidential Committee on Sexual Assault, Spring 2014

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Submitted on April 30th 2014 to:

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