

Appendix

I. LIST OF MEETING DATES/TOPICS

Meeting No. 1: October 11, 2012

President R. Gerald Turner presented the charge to the Task Force. Chair Kelly Compton shared the Guiding Principles framing the work of the group (See Appendix, Examples). Edward Stoner, a consultant in the area of legal issues related to higher education and an expert in student conduct codes, made a presentation to the Task Force on sexual misconduct in general and colleges' responses.

Meeting No. 2: October 17, 2012

Dr. Lori S. White, Vice President of Student Affairs, and Dr. Lisa Webb, Associate VP of Student Affairs and Dean of Students, offered an overview about how SMU responds to reports of sexual misconduct. Rick Shafer, Chief of SMUPD, discussed how the SMU police department responds to sexual misconduct reports as well as the requirements of the Clery Act. Dr. White also informed the Task Force about changes that SMU has already made to its Sexual Misconduct Policies and Procedures in light of the *Dear Colleague* letter and Title IX legislation.

Meeting No. 3: November 1, 2012

Ann Franke, Esq. of Wise Results LLC, presented an overview of Title IX and distributed the following articles:

- "Title IX Tackles Campus Sex Assaults: Colleges are applying the 40-year-old federal gender equity law to isolated cases but some object to its expanding role," *Los Angeles Times*, April 29, 2012.
- "Setting a Realistic Standard of Proof in Sex-Misconduct Cases," *The Chronicle of Higher Education*, October 15, 2012.

Ms. Franke also reviewed the *Dear Colleague* letter, and the Task Force discussed the background and philosophical foundations of the SMU Student Code of Conduct.

Ms. Franke also provided a list of sexual misconduct training resources for higher education institutions. These are included at the end of this appendix.

Meeting No. 4: November 8, 2012

Members of a panel of community resource providers presented overviews of the services they provide, identified key issues that they considered relevant to the work of the Task Force and spelled out how they each collaborate with SMU and other community resource providers. Members of the community panel included:

- Paige Flink, who is Executive Director of The Family Place;

- Loren Larkin, who is Supervisor in the Sexual Assault Nurse Examiner (SANE) program and also the Pediatric Emergency Services Network (PESN) Coordinator for Texas Health Presbyterian Hospital of Dallas;
- Betty Kay Schlesinger, who is Executive Director, Victims Outreach;
- Monica Urbaniak, who is a therapist specializing in sexual assault issues, and also the Outreach Director for Dallas Area Rape Crisis Center (DARCC).

The Task Force then heard from a campus resources panel. Members of the panel also presented information about how they interface with community organizations and other campus resources. The panel included the following members of the SMU staff:

- Dr. Cathy Soutter, Director of Counseling and Psychiatric Services;
- Reverend Dr. Steven Rankin, Chaplain to the University;
- Brent Paxton, Administrative Assistant for the Women's Center and Pride Initiatives.

NOTE: In an effort to obtain feedback from complainants and respondents from prior SMU sexual misconduct cases, a letter of introduction and a brief questionnaire was sent in hard copy and emailed to them in early November 2012 (between meetings #4 and #5).

Meeting No. 5: November 19, 2012

Professor Ernest Jouriles, Ph.D., Professor and Chair, SMU Department of Psychology, and Professor Renee McDonald, Ph.D., Associate Dean for Research and Associate Professor of Psychology, shared their findings from a study of how women respond to threats of sexual misconduct in simulated social settings (virtual reality). Dr. Jouriles explained that his virtual reality program (VR) is an assessment strategy used to evaluate the effects of VR on the experienced realism of sexually threatening role plays. He explained that realism is assessed by participant self-reports of negative affect and perceptions of realism, direct observation of participants' verbal displays of negative affect during the role plays, and measurements of participant heart rate during the role plays. He concluded by sharing that results of his research indicated that VR can indeed heighten the realism of sexually threatening role plays.

Following the presentation, staff and students from the SMU New Student Orientation and Student Support offices performed in the vignette focused on sexual misconduct that is presented to students and parents as part of a new student orientation program. The meeting closed with an overview of the campus-wide Title IX Training program presented by Beth Wilson, SMU Associate Vice President for Institutional Access and Equity and an Executive Assistant to the President.

Meeting No. 6: November 27, 2012

A panel of students presented student perspectives about campus culture at SMU along with their sense of how students respond when they hear about reported sexual assaults.

Following the student panel discussion, the Task Force heard from Monika Korra, SMU alumna, member of the Task Force, and a survivor of sexual assault. A story about Monika's ordeal and her triumph was broadcast on ESPN 30/30: <http://vimeo.com/40252515>.

Meeting #6 marked the end of the Fall 2012 semester. Task Force members received Codes of Conduct from 45 benchmark colleges and universities on a USB drive that they were asked to review over the winter break and prepare recommendations for the following meeting.

Meeting No. 7: January 23, 2013

Divided into small working groups, members of the Task Force discussed and drew up recommendations based on their reviews of the codes of conduct that they were asked to review over the break. Susan Howe, SMU Associate General Counsel, provided an overview of FERPA (the Family Educational Rights and Privacy Act) and the Clery Act. Task Force members Rick Shafer, SMUPD chief, and Ellyce Lindberg, Assistant Dallas County District Attorney, spoke about how their departments work together to respond to sexual misconduct cases.

Meeting No. 8: February 7, 2013

Tom Tunks, SMU Professor and member of the Task Force, who also served on the earlier Presidential Task Force on Substance Abuse Prevention, discussed the process for organizing and writing the Task Force Report. Dr. Troy Behrens, Assistant Vice President for Student Affairs and Task Force Assistant to the Task Force Chair, provided an analysis of the data collected regarding best practices as well as an overview of the aggregated Task Force recommendations from the previous meeting. Dr. Behrens recommended that subcommittees be created on *Programs, Policies, Processes, and Procedures*.

Meeting No. 9: February 28, 2013

Student Body President and Task Force member Alex Mace read his letter to the SMU community that had recently appeared in *The Daily Campus* (<http://www.smudailycampus.com/opinion/student-body-president-addresses-need-for-cultural-change-at-smu-1.2991568>) and talked about his motivations for writing it. Alex said that he wrote the letter out of his concern and concerns expressed by other students about incidents of sexual misconduct, racial intolerance and other acts of incivility on the SMU campus or committed by SMU students elsewhere. Alex's letter calls for students and other members of the SMU community to hold themselves to a higher standard.

The Programs subcommittee presented its recommendations and identified areas for further Task Force discussion. The Processes subcommittee also began to present its list of recommendations.

Meeting No. 10: March 6, 2013

The Processes subcommittee finished its presentation of recommendations and identified areas for further discussion. The presentation of the Policies subcommittee followed.

Meeting No. 11: March 20, 2013

The Procedures subcommittee presented its recommendations and also offered topics for further discussion.

Meeting No. 12: March 25, 2013

The Task Force discussed the recommendations made by the subcommittees and voted on most of its final recommendations. Members agreed to work on refining several outstanding recommendations via email.

II. LIST OF RECOMMENDATIONS IMPLEMENTED/ACTIONS TAKEN TO DATE

- Interim Title IX Harassment Policy 2.5.1, adopted on February 18, 2013.
- Changes Made to Sexual Misconduct Policies and Procedures, which are also reflected in the Interim Title IX Harassment Policy 2.5.1:
 - All reports/complaints involving Title IX harassment/sexual assault require that the Office of the Dean of Student Life consult with the Title IX Coordinator.
 - Complainants will be advised by the person who initially receives the complaint that the information they provide will be kept as confidential as possible on a need to know basis, but that the Title IX Coordinator will be advised of the complaint and that further action or an investigation may be required.
 - If it is deemed appropriate by the Office of the Dean of Students that a “no-contact” letter should be issued, the complainant and respondent shall each receive such a document. Each party will be informed by the Office of the Dean of Students when the no-contact letter has been issued to the other party.
 - The timeline for the University Conduct Review Process may be extended for Title IX harassment/sexual assault cases if deemed appropriate by an SMU Official.
 - Parties in Title IX harassment/sexual assault conduct hearings shall not be allowed to cross-examine each other. Parties must submit questions to the chair. The chair will determine the appropriateness of the submitted questions. She or he may decline to ask questions that she or he deems inappropriate. The chair may also ask questions. All questioning of the parties will be done by the chair of the hearing.
 - Members of the University Conduct Board and the University Conduct Council must receive training to hear cases that involve Title IX harassment/sexual assault misconduct.
 - Information as to which individuals/offices on-campus are confidential resources for sexual harassment/sexual assault reporting will be posted on the campus website.
 - The University Conduct Council will review requests for appeals from either the complainant or the respondent in Title IX harassment/sexual assault cases, as well as for all other student conduct cases.
 - The new category, “*Recommended sanction(s) is/are inadequate*,” has been added to the “grounds for appeal” section.
 - The Dean of Student Life or his or her designee may, within a specified timeframe, review the University Conduct Board proceedings for any procedural errors and take corrective action.
 - In Title IX harassment/sexual assault cases the 4-days prior written notification of alleged violations may be waived if both the complainant and the respondent concur.

- The complainant or respondent may request that the case be heard by the University Conduct Board. Previously, the decision whether a case would be heard by the University Conduct Board was made by the Student Conduct officer.
 - The conduct officer will meet separately with the complainant and the respondent prior to the hearing. This has been regular practice but has not until now been reflected in the University Conduct Review Process.
 - The eligibility of Graduate Student Hearing boards to hear Title IX harassment/sexual misconduct cases will be added to the code.
 - If either party requests an appeal, the other party will be notified in writing by the Director of Student Conduct and Community Standards or her or his designee within a specified number of days.
 - The University Conduct Council will become a recommending entity to the Vice President for Student Affairs, who will make the final determination of responsible/not-responsible and sanctions, if any.
- Health and Safety website developed
<http://smu.edu/smunews/liveresponsibly/SexualMisconductTaskForce/smtf-main.asp>

III. EXAMPLES:

For Meeting Date #1:

Task Force Guiding Principles

- The goal of the work of the Task Force is to develop a set of recommendations in accordance with the President's charge, and that are in the best interests of all students.
- To ensure that all members of the Task Force are able to speak freely and honestly, and to build trust among the members of the Task Force, all Task Force discussions and deliberations are confidential.
- The chair or the designated university public affairs official will be the spokesperson for all media information related to the work of the Task Force.
- No individual student cases may be discussed by student name because of FERPA confidentiality requirements and to respect the privacy of individuals involved.
- Task Force meeting agendas are set by the chair. Task Force members are welcome to suggest agenda items for consideration by the chair.
- The final report of the Task Force will be submitted to President Turner by the chair. The President, after reviewing and evaluating the Task Force report and recommendations, will meet with the members of the Task Force to discuss the report.
- Members of the Task Force agree to "speak as one" following the submission of the final Task Force report to the President and his acceptance of the report.

For Methodology

The list of institutions selected for benchmarking are institutions that SMU defines as cohort and aspirational schools as well as selected other colleges and universities that professionals in the field indicated have model student codes of conduct and/or sexual misconduct policies. (See References below.)

For Recommendation #6:

- a. Yale University Anonymous Reporting Policy
 - i. <http://provost.yale.edu/news-announcements/report-sexual-misconduct-committee>
 - ii. *"Reporting Mechanisms. Our committee recognizes that incidents of sexual misconduct are under-reported. We also agree completely that publicizing the SHARE center more broadly within Yale will lead to more and better reporting of sexual misconduct. We do not recommend the creation of a specific website, hotline, or other venues through which anonymous reports are encouraged. Instead, we want to encourage confidential reporting; and, indeed, we worry*

that the explicit provision for anonymous reporting might discourage non-anonymous reporting. Non-anonymous (but still confidential) reporting is more useful both to the complainant and to the University. In any event, if an anonymous report does come to the SHARE center or to the University Women's Center (UWC), as deemed appropriate by the chair of the UWC or by the appropriate officials, that information can provide the basis for informal, non-disciplinary action, as suggested in the WFF report (p. 18), including additional training for a specific group or department or other non-punitive action."

b. Winthrop University Anonymous Reporting Policy

- i. <http://www2.winthrop.edu/victimsassistance/confidentiality.htm>
- ii. *"Anonymous Reporting: SC law guarantees that a victim may receive services while choosing not to report to law enforcement. The information that is acquired through the medical examination performed by the SANE nurse is provided anonymously to law enforcement and given a number rather than a name. The evidence will be retained for up to one year, should a victim decide to press charges. If law enforcement is notified, the report is no longer anonymous. If the person committing the sexual assault is a legal spouse, the evidence will be retained for 30 days."*

For Recommendations #17 and #20:

Emory University (Student Code of Conduct, see Reference for URL)

Consent defined. Because sexual misconduct is defined as sexual activity that is undertaken without consent, it is imperative that each participant obtains and gives consent to each instance of sexual activity. Consent is an affirmative decision to engage in mutually acceptable sexual activity, and consent is given by clear actions or words. It is an informed decision made freely and actively by all parties. Consent may not be inferred from silence, passivity, or lack of active resistance alone. Furthermore, a current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one's responsibility to obtain consent.

Conduct will be considered "without consent" if no clear consent, verbal or nonverbal, is given. In some situations an individual's consent to sexual activity may be invalidated because of circumstances or the behavior of another. Examples of such situations include, but are not limited to, incompetence, impairment from alcohol and/or other drugs, fear, unconsciousness, intimidation, coercion, confinement, isolation, or mental or physical impairment. Incompetence results when an individual is at such a level of impairment such that she/he cannot appreciate the nature of giving consent to participate in sexual activity.

Marquette University (Student Code of Conduct, see Reference for URL)

Consent for sexual contact cannot legally be given if an individual is under the age of 18, is incapacitated due to alcohol or other drugs, is unconscious or asleep, or has limited mental capacity. Consent is a clear yes, not the absence of no.

Consent is positive cooperation involving an act of free will, absent of coercion, intimidation, force or the threat of force. A person cannot give consent if he or she is unable to understand what is

going on. There must always be active consent on both sides. Consent to one thing does not imply consent to another. If limits are made clear and consent is not given, pressuring someone into changing his or her mind is not consent.

- Consent is based on choice.
- Consent is active, not passive. Silence and passivity do not equal consent.
- Consent is possible only when there is equal power.
- Giving in because of fear is not consent.
- Giving in or going along with someone to gain approval or to avoid being hurt is not consent.
- Consent means two people (or more) deciding together to do the same thing, at the same time, in the same way, with each other.

Yale University (Student Code of Conduct, see Reference for URL)

Definition of Sexual Consent

Sexual activity requires consent, which is defined as clear, unambiguous, and voluntary agreement between the participants to engage in specific sexual activity. Consent cannot be inferred from the absence of a "no"; a clear "yes," verbal or otherwise, is necessary. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent, and individuals are thus urged to seek consent in verbal form. Talking with sexual partners about desires and limits may seem awkward, but serves as the basis for positive sexual experiences shaped by mutual willingness and respect.

Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition. Consent cannot be obtained by threat, coercion, or force. Agreement given under such conditions does not constitute consent.

Consent must be clear and unambiguous for each participant throughout any sexual encounter. Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply ongoing or future consent. Consent can be revoked at any time. For all of these reasons, sexual partners must evaluate consent in an ongoing fashion and should communicate clearly with each other throughout any sexual encounter.

For Recommendations #19 and #21:

Southern Methodist University Student Code of Conduct Background and Philosophy

**By Lori S. White
Vice President for Student Affairs**

Background Information on Student Codes of Conduct

A university is a community that seeks to provide the best learning environment possible for all students. One way a university seeks to achieve such an environment is by outlining for students – from the beginning of their formal relationship with the institution – expectations for continued membership, and membership in good standing, in the university community.

Ed Stoner (2004) in his seminal article on student codes of conduct titled *“Navigating Past the Spirit of Insubordination:” A Twenty-First Century Model Student Conduct Code* (http://www.edstoner.com/uploads/stoner_lowery_JCUL_2004_cropped.pdf) indicates that delineating expectations for student behavior has been something that colleges and universities have done in some form or another since their founding.

All universities today have some manner of a student conduct code though such codes may be referred to by different names at different universities.

For example, The University of Virginia (UVA) has a *Code of Honor* that outlines expectations for UVA students. An excerpt from the UVA *Code of Honor* reads:

....students at the University make a commitment not to lie, cheat, or steal within Charlottesville, *the surrounding community*, or where they represent themselves as University students in order to gain the trust of others. Because of this commitment, there's a strong degree of trust among the various members of the University community. Students are also expected to conduct themselves with integrity and are presumed honorable until proven otherwise.....UVA students benefit from the freedom and security provided by the Honor System; every student must agree to live by and support the spirit of honor...(<http://www.virginia.edu/uvatours/shorthistory/code.html>).

The UVA Honor Code was established at the University of Virginia in 1842 and is the oldest student-run honor system in the country.

Stanford University, where I went to graduate school and where I also worked previously, articulates a *Fundamental Standard* as its organizing principle for student behavior at the University. *The Fundamental Standard* states:

Students are expected to show both within and without the University such respect for order, morality, personal honor, and the rights of others as is demanded of good citizens. Failure to observe this will be sufficient cause for removal from the University.
(<http://studentaffairs.stanford.edu/judicialaffairs/policy/fundamental-standard>).

Similarly to Stanford and Virginia, the preamble to the SMU Code of Conduct, outlines our values as a university and what we expect from our students:

A university is a complex institution. It is distinctive from anything else in society and therefore, the focus of its norms is distinctive. Further, a private university is an elite institution; admittance and attendance is a privilege granted on the assumption that the applicant has voluntarily enrolled in the institution and shares the university's values and goals and is committed to its purpose. If a student's values and goals are not consistent with those of the university the privilege of attendance may be terminated.
(http://smu.edu/studentlife/studenthandbook/PCL_03_Conduct_Code.asp).

The SMU Student Code of Conduct

Mr. Stoner recently spoke to the *President's Task Force on Sexual Misconduct Policies and Procedures* (Task Force) at SMU. An important point made by Stoner in his remarks to the Task Force is that if universities have standards and expectations for student behavior, then universities must also have a process for holding students accountable for that behavior.

SMU outlines its expectations for student behavior, and our process for holding students accountable for said behavior, in the SMU Student Code of Conduct, as referenced above.

Our research found that a version of the SMU Student Code of Conduct appeared in the 1918-1919 course catalogue. This means that SMU has had a student code almost since the first classes started in 1915.

The 1968-69 SMU course catalogue addresses student conduct and includes the following language: "The University believes in student representation on all disciplinary bodies, from the residential hall judiciaries to the Faculty-Student Committee on Discipline." SMU's Student Conduct and Community Standards' office has published copies of the SMU Student Code of Conduct beginning in 1971, making it possible to trace the evolution of the student code in our most recent history.

I share this information to underscore the fact that the Student Code of Conduct, and student involvement in the conduct process, has a long history at SMU.

Because of the responsibilities assigned to the Division of Student Affairs, the duty for overseeing the student conduct process at colleges and universities is typically delegated by the President of a college or university to Student Affairs, and this is the case at SMU. However, the President of SMU remains the ultimate authority for the Student Code of Conduct as vested in the President by the Board of Trustees.

Student Affairs is the area on campus responsible for overseeing most aspects of student life including the following areas:

- Residence Life and Student Housing

- Student Leadership and Student Organizations, including student government and Greek Life
- Student Health and Counseling
- The Dedman Center for Lifetime Sports
- The Hegi Family Career Development Center
- The Chaplain's Office
- The Women's Center
- The Hughes-Trigg Student Center
- New Student Orientation and Student Support
- The Office of the Dean of Student Life, through which the Office of Student Conduct and Community Standards reports

Student Affairs offices are collectively charged with overseeing student transition into the University community and students' overall well-being. As such, Student Affairs assumes much of the responsibility for educating students about the meaning of citizenship in a university community and for holding students accountable to these expectations. Faculty certainly play an important role in this expectation-setting as well, particularly with respect to SMU's academic honor code (http://smu.edu/studentlife/studenthandbook/PCL_05_HC.asp).

A particularly unique feature of the SMU student code is that the code is "received and evaluated" by the Student Senate. At SMU students are able to offer recommendations regarding the code, which they do annually through a process coordinated by the Student Senate, and generally any wholesale rewrites of the code will involve student feedback in some manner.

Differences between the Student Conduct Process and the Criminal Process

In Stoner's talk to the Task Force, he mentioned something additionally important regarding student codes of conduct. According to Stoner, a student code of conduct is not meant to be a replication of a criminal process, nor is a student code set up to operate instead of the criminal process. In fact, SMU's Code of Conduct states this explicitly.

The University recognizes that some violations may be handled concurrently by the university and civil and/or criminal authorities. The criminal process is separate and distinct from the student conduct review process which determines only violations of the student code and imposes sanctions within the university. As such concurrent action by both processes does not constitute double jeopardy (see SMU Student Code of Conduct as referenced on page 2 of this document).

In other words SMU's student conduct process recognizes that students, in committing violations of our code, may also be breaking the law. However, as an educational institution we have the power only to determine whether a student is in violation of our code of conduct; we do not have the power to determine if a student is guilty or innocent in a court of law. Similarly, a court of law cannot regularly determine for us whether a student is in violation of our code and as such should receive a specified university penalty. Therefore the two processes – the criminal process and the student conduct process – can and do operate separately from one another.

Now that I have made the point about the difference between the SMU student conduct process and the criminal process, there is one place where the criminal process does inform our actions in the SMU student conduct process. If a student has been arrested for a felony the University can

temporarily suspend the student pending the outcome of the criminal process. However the student, even if arrested for a felony, is still entitled to notice and a hearing per Stoner's (2004) two principles of a model student conduct process. These two principles, which are required by federal law, are that (1) a student must be given notice he or she is alleged to have violated some aspect of the student code of conduct and (2) that a student must be provided an opportunity for a hearing, before a student is sanctioned (including the sanction of being permanently removed [expelled] from the university).

Because a student code is fundamentally about ensuring a positive learning environment based on the particular values of each respective university, as such the language used in the student conduct process, the standards used for determining whether a student is responsible or not responsible for violating our standards of behavior, and the conduct process itself, are going to be different than those used in a criminal process.

For example, here are some of the key terms we use in the student conduct process that are different from those used in a criminal process

- *Conduct* versus *Judicial* is used to describe the process of holding students accountable for their behavior in an educational community.
- *The Complainant* is used to describe the person(s) or entity making a complaint that allegedly violated policy, versus *The Victim*.
- *The Respondent* is used to describe the persons(s) or entity that organization that allegedly violated policy, versus *The Perpetrator*.
- *Responsible* is used when a student has been found in violation of the Student Code of Conduct, versus *Guilty*.
- *Not Responsible* is used when a student has been found not to be in violation of the Student Code of Conduct, versus *Innocent*.

Additionally, the standard for finding someone responsible in the student conduct process is the *greater the weight of the credible evidence* versus *beyond a reasonable doubt*.

And, because we believe that fundamentally our student conduct process is an educational and not a criminal one, we do not allow students to be represented by attorneys.

In sum, our overall goal for having a student code is to outline community standards and to hold students accountable for them. The role of the student conduct process is to achieve the two things Stoner says universities are required by law to do – that is, give students notice if they are thought to have committed a violation of the code and give them an opportunity to be heard – to tell their side(s) of the story.

We use our conduct review process as currently constructed to determine whether a violation of our code occurred and if so what the sanction should be. Should a student be found responsible for a violation of our student code, sanctions range from a warning (something we call an *informal resolution*) all the way to expulsion – removing a student permanently from the SMU community.

The Student Conduct Process in Sexual Assault Cases

The aforementioned commentary begs the question as to whether the conduct process used to adjudicate students who drink underage should be the same process used in the case of sexual misconduct. An overarching charge of the Task Force is to ensure that SMU is in compliance with the Title IX *Dear Colleague Letter* regarding required university responses to incidents of sexual harassment and sexual assault. (<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>). The Task Force also has a goal to ensure that SMU is engaged in best practices regarding issues of sexual misconduct on college campuses, particularly the ones universities are confronted with most often – when one student is accused of sexually assaulting another student.

Title IX requires that universities have an internal process for responding to incidents of sexual harassment and sexual assault and that universities should not wait for external judicial proceedings to take action when a sexual assault has allegedly been committed by a member of the university community. However, Title IX does not proscribe what the internal process should look like.

In response to the Title IX *Dear Colleague Letter*, colleges and universities are re-examining their student conduct code processes related to sexual harassment/sexual assault. For SMU our review has identified the following questions and issues for the Task Force to consider toward the development of a model process for our responses to incidents of sexual harassment/sexual assault:

- Should SMU officials who receive a sexual misconduct report automatically report the sexual assault with the particulars (student's name) to the police or allow the student to make that choice as to whether she wants to report the assault to the police? If it is the former, how do we make this known to the University community, and will students hesitate to come forward if they think that they will not have a choice about whether their case will be reported to the police?
- What should happen with a student who has been accused of sexual misconduct, but has not yet been found responsible, particularly if the student has not been arrested?
- Currently sexual misconduct cases at SMU go to boards to be heard (unless the respondent admits responsibility before a case is heard). Should boards continue to be the model or should sexual misconduct cases be heard administratively? (Currently in an administrative or non-board hearing, a case is heard by one person.)
- If the board model is used, how should the hearing process be organized?
- Given SMU's value of shared governance, should students continue to be involved in the hearing process for sexual misconduct cases?
- Should different processes be used for sexual misconduct violations as opposed to other violations of the student code?
- What should an appeal process look like, including the concept of allowing both students to appeal? In the current process, similar to a court process, only the respondent (the defendant in a court process) can appeal the outcome of a hearing.
- How do we make what can be a complicated process clear and fair to all parties, and one that emphasizes care and respect for all parties involved?

Conclusion

These issues deserve our best thinking, careful consideration and concern for fairness to all involved. In deliberating our processes in support of the SMU Code of Conduct and Title IX requirements, and in identifying any procedural changes needed, the Task Force will be underscoring our commitment to providing the best possible living and learning environment for our students – a community of trust and accountability that is central to our educational mission.

For Recommendation #22:

1. Dallas Area Rape Crisis Center
<http://www.dallasrapecrisis.org/who-we-are/>
2. Texas Sexual Assault Prevention and Crisis Services
<https://www.oag.state.tx.us/victims/sapcs.shtml>
3. Texas Association Against Sexual Assault
<http://www.taasa.org/>
4. The Family Place, Dallas
<http://www.familyplace.org/>

For Recommendation #40:

Bystander Training Examples

Duke University

Don't stand by, stand up! PACT is an interactive, student-facilitated training sponsored by the Women's Center that aims to engage everyone in preventing gender violence on Duke's campus. Participants learn simple behaviors and strategies that they can use to combat sexual assault, sexual harassment, stalking and relationship violence. Adapted from a curriculum developed at the University of New Hampshire, PACT's goal is to reduce the incidence of sexual and relationship violence on campus by training participants to intervene in safe and creative ways, rather than standing aside as a passive bystander.

The 5-hour interactive training is led by peer facilitators, who present Duke-specific scenarios, lead discussions, and help participants develop strategies for identifying and minimizing risk, as well as responding compassionately to victims/survivors of gender violence.

Yale University

All sophomores will be required to complete a 75-minute bystander intervention training as part of an ongoing effort to improve the campus sexual climate, according to the class of 2015 from Yale College Dean Mary Miller and Assistant Dean of Student Affairs Melanie Boyd.

Over 90 workshop sessions on strategies for preventing sexual misconduct as a third party are presented. Programs consist of small groups of 14 or 15 students, and each group is led by students. The curriculum consists of a video showing a hypothetically harmful scenario, an overview of the ideas behind bystander intervention.

IV. REFERENCES

The Task Force referred to the codes of student conduct at the following colleges and universities in its effort to identify best practices and benchmarking research in the areas of sexual misconduct policy and training.

SMU ASPIRANT INSTITUTIONS

Boston College <http://www.bc.edu/content/bc/offices/dos/community.html>

Brandeis University <http://www.brandeis.edu/studentaffairs/srcs/index.html>

Carnegie Mellon http://www.cmu.edu/student-affairs/theword//comm_standards/standards.html

Emory University <http://conduct.emory.edu/>

Lehigh University <http://www.lehigh.edu/~indost/conduct/>

Tufts University <http://uss.tufts.edu/studentaffairs/judicialaffairs.asp>

Tulane University <http://tulane.edu/studentaffairs/conduct/>

University of Notre Dame <http://dulac.nd.edu/university-disciplinary-procedures/disciplinary-settings/>

University of Rochester <http://www.rochester.edu/college/odos/conduct/>

University of Southern California <http://www.usc.edu/student-affairs/SJACS/>

Vanderbilt University <http://www.vanderbilt.edu/studentconduct/>

Wake Forest University <http://services.studentlife.wfu.edu/judicial-affairs/>

SMU COHORT INSTITUTIONS

American University <http://www.american.edu/ocl/sccrs/>

Baylor University http://www.baylor.edu/judicial_affairs/index.php?id=6959

Boston University <http://www.bu.edu/dos/>

Fordham University

http://www.fordham.edu/student_affairs/deans_of_students_an/dean_of_students_rh/fordhams_code_of_conduct/the_judicial_process_30350.asp

George Washington University <http://gwired.gwu.edu/osjs/Policies/>

Marquette University <http://www.marquette.edu/osd/policies/conduct/index.shtml>

Pepperdine University <http://www.pepperdine.edu/judicialaffairs/>

Syracuse University <http://judicial.syr.edu/>

Texas Christian University <http://www.campuslife.tcu.edu/default.asp>

University of Denver <http://www.du.edu/studentlife/studentconduct/index.html>

University of Miami http://www.miami.edu/sa/index.php/dean_of_students/judicial/

University of Tulsa <http://www.utulsa.edu/student-life/Office-of-Student-Affairs.aspx>

OTHER INSTITUTIONS

Davidson College <http://www3.davidson.edu/cms/x23857.xml>

College of William and Mary

<http://www.wm.edu/offices/deanofstudents/services/studentconduct/index.php>

University of Virginia <http://www.student.virginia.edu/ujc/>

Yale University <http://provost.yale.edu/uwc>

Duke University <http://studentaffairs.duke.edu/conduct>

St. Louis University <http://www.slu.edu/x24204.xml>

University of Charleston <http://publicsafety.cofc.edu/services/helpfulinfo/studentconduct.php>

Winthrop University <http://www.winthrop.edu/studentconduct/>

REPORTS REVIEWED BY THE TASK FORCE

Boston University Report of the Men's Ice Hockey Task Force

<http://www.bu.edu/president/reports/hockey-task-force/>

California Blueprint to Address Sexual Assault: Report to Governor Schwarzenegger and the Legislature http://new.vawnet.org/Assoc_Files_VAWnet/CampusBlueprint.pdf

Cal Poly, Pomona Presidential Task Force on Substance Abuse and Sexual Assault Report
Recommendations
http://studentaffairs.calpoly.edu/sites/studentaffairs/files/documents/SA_Task_Force_Recommendations_FINAL.pdf

Department of Defense Task Force Report on Care for Victims of Sexual Assault
<http://www.defense.gov/news/may2004/d20040513satfreport.pdf>

Miami University Final Report of the Task Force for the Prevention of Sexual Assault
http://www.miami.muohio.edu/documents/campus-safety/Task_Force_Final_Report.pdf

Southern Methodist University Report of the President's Task Force on Substance Abuse Prevention
<http://smu.edu/smunews/liveresponsibly/commission/commission-report-10sept2009.asp>

Toward a Culture of Respect: The problem of sexual misconduct at Amherst College
https://www.amherst.edu/aboutamherst/sexual_respect/committees/oversight_cmte/report_2013_january

University of Albany Report to the Task Force on Sexual Assault
http://www.albany.edu/campusnews/releases_340.htm

University of Notre Dame Committee on Sexual Assault Prevention
<http://csap.nd.edu/policy/sexual-harassment-policy-and-grievance-procedures/>

University of Notre Dame and the United States Department of Education, Office of Civil Rights
2011 joint resolution agreement
<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/05072011-b.pdf>

Yale University's University Wide Procedures for Sexual Assault
<http://provost.yale.edu/uwc-procedures>