

SEXUAL MISCONDUCT POLICY

General Statement

As four-year residential liberal arts colleges with full-time undergraduate students, Hobart and William Smith Colleges are committed to creating and maintaining an academic and working environment that respects the different voices and experiences of its members and that nurtures the trust of its academic mission. Open and free discussion of issues of gender, race, class, sexual orientation, religion, age, and other intellectual, social, political topics are the hallmarks of this institution.

The Colleges have general expectations of Hobart and William Smith students and employees. The Colleges expect that its members will behave responsibly and equitably, that they will respect the personal rights of others, and that they will not infringe on the rights of others. The members of the Colleges are expected to maintain professional relations that underscore the academic mission of the institution.

The integrity of the Colleges rests upon its ability to create and maintain an environment free from intimidation or injury generated by sexual intolerance or harassment. The Colleges act to eliminate such practices from our community and to remedy their effects. All members of the Colleges are entitled to a professional working and learning environment. All members of the Colleges are accountable and responsible for ensuring that a respectful and trusting environment is maintained.

The following policy applies to all members of the Colleges community — students and employees (faculty, union and nonunion, salaried and hourly staff). The body charged with enforcing this policy is, therefore, a campus committee -- the Sexual Grievance Board -- made up of representatives from each of these constituencies.

The Dean of Hobart or William Smith College, or a designee, may impose conditions on a student's continued relationship with the Colleges during the conduct process referenced in this policy. The authority of the Director of Human Resources to take personnel action during the investigation and hearing of any complaint of conduct falling within the confines of this policy is not altered by this policy.

Discretion in interpreting, implementing and revising this policy is vested solely in the Colleges.

Title IX of the Education amendments Act of 1972 prohibits discrimination on the basis of sex in education programs or activities by recipients of federal financial assistance. **All sexual harassment complaints and grievances made under Title IX will be handled under this policy. All other Title IX grievances will be handled pursuant to the Title IX Non-Discrimination and Grievance Procedure set forth in the Handbook of Community Standards.** The Title IX Coordinator is the Director of Human Resources: Sandra Bissell, Coxe Hall, ext. 3313.

Definitions and Sanctions

The phrase sexual misconduct, including sexual harassment, describes varying extremes of discrimination and wrongdoing based on one's gender, sexuality, and/or sexual orientation. Such behavior destroys the trust and respect that are at the core of our academic mission. Such actions are condemned by the Colleges and in many instances may be violations of New York State and federal laws. Members of the Hobart and William Smith community who commit these acts will be subject to sanctions from the Colleges and/or the criminal justice system. Repeated violations will result in more stringent sanctions;

however, as more fully described below, permanent separation of a student or termination of employment may result after a first offense.

Sexual misconduct includes sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse and sexual exploitation.

Jurisdiction

The jurisdiction of the Colleges will generally include conduct which occurs on Colleges' premises, which occurs off Colleges' premises at Colleges-sponsored events, or which adversely affects members of the Colleges' community or the pursuit of the Colleges' mission.

A. SEXUAL HARASSMENT

Sexual harassment is any gender-based course of conduct that could deprive someone of educational and/or employment access, benefits or opportunities. Sexual harassment is an issue of power – power to control or manipulate people or to determine the nature of the work/learning environment. Sexual harassment, whether intentional or not, has the effect of belittling members of the Colleges and is prohibited.

Verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- 1) submission to such conduct is made explicitly or implicitly a term or condition of employment or academic status, or
- 2) submission to or rejection of such conduct is used as a basis for employment or academic decisions, or
- 3) such conduct is sufficiently severe or pervasive and objectively offensive that it has the purpose or effect of unreasonably interfering with an individual's work or academic experience or performance, or
- 4) such conduct sufficiently severe or pervasive and objectively offensive that it creates an intimidating, hostile, or offensive working, educational, or living environment.¹

Retaliation against a person for making a report under this policy, for filing a complaint, for supporting a party to a complaint, or for participating in an investigation of a complaint is strictly prohibited and will not be tolerated. Retaliation is any action taken in consequence or retribution for making a complaint or participating in a complaint. Retaliation is a serious offense that can lead to disciplinary action and/or sanctions independent of the merits of the original misconduct allegation.

Depending on the situation, examples of sexual harassment may include, but are not limited to the following:

- Persistent and unwelcome sexually-oriented comments (which could include joking and teasing) about gender-specific traits;
- Persistent and unnecessary touching, patting, pinching, or brushing against a person's body or clothing;
- Persistent and unwelcome sexual flirtation, advances, or propositions;
- Repeated derogatory and offensive statements that are related to gender and/or sexual orientation;

¹ Bates College, Nondiscrimination and Sexual Harassment Policies and Procedures; Colgate University Sexual Harassment Definition

- Public displays of material (including but not limited to cartoons, articles, books, images) that are sexually explicit;
- Unwanted communications (including but not limited to phone calls, emails, or gestures) that are related to gender, sexual behavior, and/or sexual orientation
- Unwelcome or welcome conduct between individuals in a third party's work, classroom, or other setting that is required for work or learning purposes, when such conduct creates a negative work environment and/or educational environment for that third party.

1. Academic and Intellectual Freedom: The freedom of all members of the Colleges to express openly their ideas and opinions must be maintained.² Adherence to the principle of freedom of expression and to the principle of academic freedom requires that all thoughts presented as ideas or the advocacy of ideas in an educational setting, if they are germane to the subject matter being addressed, must be protected. This applies to the ideas of employees and students alike. The maintenance of intellectual freedom through the open expression of ideas will sometimes be unavoidably hurtful. Knowing this to be true, the Colleges aspire to create and maintain an environment where it is understood that derogatory or debasing comments play no meaningful role in the free exchange of ideas, and may inhibit that exchange, thereby denying some individuals full participation in the learning experience.

Within this framework, the Colleges believe that all members of the community have a responsibility to foster an environment of tolerance, civility, awareness, and respect. The integrity of the Colleges rests upon its ability to create and maintain an environment free from intimidation or injury generated by intolerance or harassment.

2. Sanctions for Sexual Harassment: Students found responsible for sexual harassment face sanctions ranging from (but not limited to) a warning to social probation (including reprimands, educational activity, and revoking of privileges), to suspension (required withdrawal) to permanent separation, depending on the nature of a particular violation and/or an individual student's overall conduct record at the Colleges.

Employees found responsible for sexual harassment face sanctions ranging from (but not limited to) a warning with a record in the individual's file to required educational training to work restrictions, to suspension without pay, loss or reduction of salary, to dismissal, depending on the nature of a particular violation and/or whether or not it is a repeat offense. A first offense can result in immediate termination.

B. SEXUAL EXPLOITATION

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute another form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, prostitution, non-consensual video or audio-taping of sexual or other private activity, exceeding the boundaries of consent (e.g. permitting others to hide in a closet and observe consensual sexual activity, videotaping of a person using a bathroom, posting on the Internet a sexually explicit photograph of a former partner), engaging in voyeurism, or engaging in consensual sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of such infection.

1. Sanctions for Sexual Exploitation: Students found responsible for sexual exploitation face sanctions ranging from (but not limited to) social probation to required withdrawal, depending on the

²University of Madison-Wisconsin Policy.

nature of a particular violation and/or an individual student's overall conduct record at the Colleges. See the Handbook of Community Standards for a definition of the range of possible sanctions.

Employees found responsible for sexual exploitation face sanctions ranging from (but not limited to) salary reduction, suspension without pay to termination, depending on the nature of a particular violation and/or the employee's overall record of conduct at the Colleges.

C. NON-CONSENSUAL SEXUAL CONTACT AND SEXUAL INTERCOURSE

1. Non-consensual sexual contact and non-consensual sexual intercourse include any form of sexual contact that occurs without effective consent. Non-consensual sexual contact and non-consensual sexual intercourse are serious violations of the Colleges' efforts to maintain a safe, trusting, and respectful campus environment, and are prohibited. In some instances, these forms of sexual misconduct involve violence or threats of violence. Allegations involving violence or threats of violence are taken very seriously and the Colleges apply the severest sanctions in the code of conduct for these violations. In addition to violating the Colleges' code of conduct, conduct involving violence or threats of violence may be felony offenses.

a) Non-Consensual Sexual Contact is:

- any sexual touching ("sexual" referring to breasts, genitals, buttocks, including disrobing or exposure),
- however slight,
- with any object,
- by a man or woman upon a man or woman,
- by force, threat of force (this includes the use of force or threat of force, coercion, threat of retaliation, or rendering someone incapable of consent through the administration of drugs without the individual's consent) or without effective consent.

b) Non-Consensual Sexual Intercourse is:

- any sexual intercourse (anal, oral, or vaginal),
- however slight,
- with any object,
- by a man or woman upon a man or woman,
- by force, threat of force (this includes the use of force or threat of force, coercion, threat of retaliation, or rendering someone incapable of consent through the administration of drugs without the individual's consent) or without effective consent.

2. Sanctions: Students found responsible for non-consensual sexual contact and/or non-consensual sexual intercourse face sanctions ranging from (but not limited to) social probation to required withdrawal, depending on the nature of a particular violation and/or an individual student's overall conduct record at the Colleges. See the Handbook of Community Standards for a definition of the range of possible sanctions.

Employees found responsible for non-consensual sexual contact and/or non-consensual sexual intercourse face sanctions ranging from (but not limited to) salary reduction, suspension without pay to

termination, depending on the nature of a particular violation and/or the employee's overall record of conduct at the Colleges.

D. EFFECTIVE CONSENT

1. Under New York state law, persons under the age of 17 are incapable of giving consent. For those over the age of 17, the Colleges define effective consent as words or actions which indicate a willingness to participate in mutually agreed-upon sexual activity. Effective consent must be informed, freely and actively given, and mutually understood. **Consent is not effective if it results from the use of threats, intimidation, or coercion.**³ Mutually understandable consent is a subjective standard. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to do the same thing, in the same way, at the same time, with each other.

Consent requires all of the following conditions:

- a) all parties are fully conscious;
- b) all parties are equally free to act; and
- c) all parties have positively and clearly communicated their intent.

Stated differently, “consent” is defined as a clear expression of permission to a sexual act. Consenting persons must act freely, voluntarily, and have knowledge of the act involved. Consent will not be implied by silence, mere passivity, from a state of intoxication or unconsciousness. Lack of consent is implied if there is a threat of violence, if violence is in fact used, or if the accused has taken advantage of a position of influence which that person has over the victim.

2. **Incapacity:** Engaging in sexual contact with a person who is incapacitated due to drugs or alcohol, or who is unconscious or asleep, or giving a person drugs or alcohol with the intent to impair his or her judgment or make them unconscious is a violation of this policy. The initiator of sexual contact will be found in violation of this policy if it is determined that he or she knew or should have known that the other person's judgment was substantially impaired at the time consent was obtained or sexual contact was initiated.

The consumption of alcohol or drugs severely complicates the question of whether or not a person is “fully conscious.” Drinking oneself to the point of incapacitation or passing out would make one clearly incapable of consent; but, if a person has consumed *any* amount of alcohol, it is still quite possible that he or she is incapable of consent. It would be prudent not to engage in sexual relations with that person. Alcohol or other drug-induced blackouts present an even more difficult problem in so far as a person who has blacked out from over consumption of alcohol may appear sober, rational and consenting but in fact is not capable of consent.

In the rare instance when the initiator of sexual contact had no way of knowing that the other party was incapable of consent, this factor may be taken into account in determining whether this policy has been violated and in determining an appropriate sanction.

3. **Age/Status and Consent:** Given the status of administrators, faculty and supervisors over students and subordinates, or of upper-class students over first-year students, all members of the Colleges should be cognizant of the power and authority relations that exist in an academic setting, and the potential exploitation that may arise from their positions. Differences in age or status create power

³ National Center for Higher Education Risk Management.

differentials that may complicate the ability to demonstrate that any sexual relationship is fully consensual.⁴

a) **Consensual Sexual Activity between Employees and Students:** An ethic of professionalism and respect within the Colleges' community demands that those with authority not abuse the power with which they are entrusted. Consensual sexual relationships between employees and students may not only have negative repercussions for the individuals involved, but may create an uncomfortable or distrustful environment for others in the community. The power differential complicates the ability to demonstrate that any such relationship is fully consensual. Given the complications associated with these types of relationships, it should be noted that professors could be faced with a personal civil or criminal action as a result of engaging in such relationships.

Because of the potential for favoritism or other conflicts of interest, the Colleges affirm and uphold a policy which strongly discourages all consensual sexual activity between students and employees, and which prohibits such activity where any supervisory role exists. Therefore,

- faculty members shall not engage in consensual sexual relationships with students enrolled in their courses and
- faculty members or other employees of the Colleges shall not engage in consensual sexual relationships with students under their supervision in such matters as evaluating, advising, coaching, or directing a student as part of a school program.⁵

Such conduct results in relationships that are fundamentally asymmetrical and contradicts both professional ethics and Colleges' policy. Where such a relationship develops, it is the obligation of the faculty member to bring this matter to the immediate attention of their supervisor, who will take action as necessary to shift class sections or supervisory roles to eliminate conflicts of interest.

4. Consensual Sexual Activity between Employees: Consensual sexual relationships between employees of the Colleges do not pose a problem unless the potential for favoritism or other conflict of interest exists or arises. In such complaints (for example, supervisor/subordinate or chair/untentured faculty), the parties involved should disclose their relationship to a supervisor and/or remove themselves from any decisions that may reward or penalize one another.

Resources and Reports to Authorities

This policy is intended to reflect the interests of the HWS community and, to the extent applicable, federal and state laws. Members of the Hobart and William Smith community who commit these actions will be subject to sanctions from the Colleges and/or may be subject to sanctions in the criminal justice system, including, but not limited to: probation, required withdrawal, permanent separation, financial restitution, and/or other sanctions as determined as a result of disciplinary procedures; prosecution in the criminal courts (felony or misdemeanor); prosecution in the civil court; organizational sanctions including probation and rescinding recognition.

The Colleges have the right to take action regarding any conduct prohibited by this policy regardless of whether it violates the law and at the appropriate time determined by the Colleges, regardless of any action being pursued by the authorities. This policy addresses the institution's interests

⁴ Grinnell College Discrimination and Sexual Harassment Policy.

⁵ Washington University at St. Louis.

and responsibilities; however, the Colleges may refer violations of federal and state laws to the appropriate authorities. All aggrieved persons are entitled, regardless of the outcome of an internal hearing, to pursue the complained of conduct with the authorities.

The Colleges provide confidential counseling and other supportive services in complaints of sexual harassment sexual misconduct, sexual assault, including acquaintance or stranger rape. Inquiries may be made at the following offices:

On Campus

Hubbs Health Center, ext. 3600
Counseling Center, ext. 3388
Chaplain's Office, ext. 3671
Office of Security and Safety, ext. 3656
William Smith Dean's Office, ext. 3467
Hobart Dean's Office, ext. 3300

Off Campus

Rape Crisis Service, 781-1093
24-Hour Hotline, (800) 247-7273

False Allegations

Because of the nature of discrimination allegations (including allegation of sexual and other than forms of harassment), allegations often cannot be substantiated by direct evidence other the Complainant's own statement. Lack of corroborating evidence should not discourage individuals from considering the filing of a complaint. No action will be taken against an individual who makes a good faith allegation even if after investigating the allegation is not substantiated.

However a person found to have made an allegation or filed a complaint based on allegation that he/she *knew* to be false will be subject to disciplinary action and/or sanctions.

Process, Procedures and Hearing Board

Any member of the Colleges' community or any visitor or guest who feels he or she has been subjected to conduct in violation of this policy or accused of a violation of the Colleges' Sexual Misconduct Policy should report the incident promptly to any of the following designated members of the community with whom he or she feels comfortable:

- Deans of the Colleges,
- Campus Safety,
- Director of Human Resources (who is the Employee Sexual Grievance Officer),
- Associate Dean of Students (who is the Student Sexual Grievance Officer), or
- His/her supervisor.

In the event these individuals receive complaints or concerns, they will report those complaints or concerns to the Colleges' Director of Human Resources (Employee Sexual Grievance Officer) or the Associate Dean of Students (Student Sexual Grievance Officer). If the Complainant's grievance is against one or more of these individuals (the Director of Human Resources (Employee Sexual Grievance Officer) or the Associate Dean of Students (Student Sexual Grievance Officer), the complaint will be filed with the President of the Colleges. The President will then forward the complaint to the most senior faculty member on the Sexual Grievance Board or the Deputy Sexual Grievance Officer.

All complaints and incident reports will be handled as swiftly as possible given the nature of the complaint and will be treated as confidentially as possible depending upon the nature of the complaint.

Resolution of a Complaint

The Colleges encourage prompt reporting of all incidents of sexual misconduct. The Colleges believe that complaints are best adjudicated in a time frame that permits prompt, accurate reporting and investigation of all information.

Sexual Grievance Board: There is only one campus board that hears grievances or complaints related to sexual misconduct: the Sexual Grievance Board (SGB). **All sexual harassment complaints and grievances made under Title IX will be handled under this policy. All other Title IX grievances will be handled pursuant to the Title IX Non-Discrimination and Grievance Procedure set forth in the Handbook of Community Standards.** The Title IX Coordinator is the Director of Human Resources: Sandra Bissell, Coxe Hall, ext. 3313.

The SGB is comprised of two panels: the Employee Grievance Panel and the Student Grievance Panel. For complaints brought against a member of the faculty and/or staff (staff includes union, nonunion, salaried and hourly), the appropriate panel is the Employee Grievance Panel. For complaints brought against a Hobart and/or William Smith student, the appropriate panel is the Student Grievance Panel.

Informal Process: Informal problem-solving approaches are available for the resolution of some sexual misconduct complaints. Informal approaches may include, but are not limited to, discussion of the claim with the alleged offender individually, or with the applicable supervisor, or mediation. Mediation may take place with individuals designated by the Colleges, which may include Ombudspersons, the Chaplain, and the Director of Human Resources. The Complainant and Respondent do not have to be in the presence of each other during the mediation process. In the event that informal resolution is not achieved, either the Complainant or Respondent may request that the complaint proceed to formal resolution.

The designated individual handling the informal process will prepare a summary memorandum to document the process. For staff, a copy of the memorandum will be retained in the Office of Human Resources; for faculty, a copy of the memorandum will be reviewed and retained in the Provost's Office; for students, a copy of the memorandum will be maintained in the Office(s) of the Dean(s) of the student(s) involved. While the memorandum will not be part of an employee and faculty personnel file unless the complaint or a subsequent complaint results in a formal process and disposition, in all instances, the memorandum will be available for review and consideration in the event the Director of Human Resources, Provost and/or SGB deem it necessary in a subsequent matter before it. The memorandum will be a part of student's file in the Dean's Office of the student(s) involved and will be available for review and consideration in the event the Dean and/or SGB deem it necessary in a subsequent matter before it.

In most instances, the informal process will not be utilized if physical contact is involved in the complaint.

Administrative Process (Student Respondent Only): At the discretion of the Student Sexual Grievance Officer, complaints of sexual harassment meeting one or more of the following criteria may be directed to an administrative hearing: 1) there is no dispute over the facts of the complaint; 2) the alleged behavior, if proven to be true, would warrant separation from the Colleges, or 3) the Dean of either College concludes that the alleged behavior does not constitute a threat to the well-being and/or safety of members of the Colleges' community.

The administrative process shall include an informational meeting with the Student Sexual Grievance Officer, review of additional information and/or witnesses as deemed appropriate by the

Sexual Grievance Officer (which may include additional meetings with the complainant and/or respondent), and a meeting at which the findings of responsibility and, if necessary sanction(s), will be explained.

As a component of the administrative process the Sexual Grievance Officer may direct Campus Safety to conduct an investigation of the incident in question.

In the sole discretion of the Sexual Grievance Officer, the administrative process may be terminated at any point and the matter may be referred to adjudication under the Formal Process.

The Colleges reserve the right to require that any allegation be resolved through the formal complaint process.

Formal Process: The formal complaint procedures require a signed statement of complaint or grievance specifying the nature of the claim. The Colleges reserve the right to require that any complaint be resolved through the formal complaint process even if a written statement of complaint or grievance is not prepared.

The statement of complaint or grievance made by a member of the faculty and/or staff or by a student against an employee must be submitted to the Director of Human Resources. The statement of complaint or grievance made against a student must be submitted to the Associate Dean of Students. In any complaint, in the event that the Complainant has a grievance against the Director of Human Resources or the Associate Dean of Students, the complaint will be filed with the President of the Colleges and forwarded to the most senior faculty member on the Sexual Grievance Board or the Deputy Sexual Grievance Officer.

The appropriate panel – Employee Grievance Panel or Student Grievance Panel -- shall convene as quickly as possible following the receipt of a formal complaint and shall strive to convene within five (5) calendar days of receipt of a formal complaint. The Sexual Grievance Officer (described below) may alter the schedule to meet the need of any party involved.

Upon receipt of the complaint, the Employee Sexual Grievance Officer or the Student Grievance Officer will conduct a fact finding which may include an investigation by Campus Safety, which would include interviews and other protocols used by Campus Safety.

The Panel will follow the established hearing procedures, which are attached as Appendix A.

Following the hearing, the Panel will put its findings of fact in writing and will determine, on the basis of its examination of the evidence, whether it is more likely than not that the actions in question are violations of this policy. If warranted, the Panel will determine the appropriate disciplinary action and/or sanctions. Any disciplinary action or sanctions taken against a member of the faculty and/or staff or a student will be put in writing and will be included in the employee's personnel file or maintained in the student's file in the Office(s) of the Dean(s) of the involved student(s). The Dean(s) of the involved student(s) or the Director of Human Resources will impose any sanctions determined by the Panel.

No student shall be subjected to a hearing more than once for the same incident arising from a single complaint, unless an appeal has been granted.

Unless an appeal is granted (as described below), the decision of the Employee Grievance Panel or Student Grievance Panel shall be final.

Appeals

The respondent and/or the complainant may appeal the Panel's disposition of the Complaint.

Requests for appeals of decisions of a hearing panel are directed to the Employee Sexual Grievance Officer or the Student Sexual Grievance Officer. Requests for appeals shall be made in writing within two (2) business days of the written decision.

In the written appeal, it shall be the responsibility of the student, faculty or staff member pursuing the appeal to provide the evidence of one or more of the following grounds for appeal:

- a. The original hearing was not conducted in conformity with prescribed procedures, and the deviation was material;
- b. The facts in the complaint were not sufficient to establish that a violation of the Community Standards occurred;
- c. The sanction imposed was not appropriate for the violation of the Community Standards for which the student was found to be responsible; or
- d. The existence of new relevant facts, sufficient to alter the decision, not brought out in the original hearing, which could not have been known to or available to the appellant at the time of the original hearing.

After review of the grounds for the appeal, the Sexual Grievance Officers, in their sole discretion, may (1) deny the appeal thereby affirming the decision of the Panel, (2) remand the complaint to the original hearing panel for further consideration or (3) in extremely rare instances direct the complaint to a new hearing panel. Decisions made during the appeal process are final.

Nothing in this policy shall supersede any grievance procedures in the Faculty Handbook or applicable collective bargaining agreement.

Records

In connection with records regarding student matters, the Office(s) of the Dean(s) of the student(s) will maintain disciplinary records involved. Notations of permanent separation and required withdrawal appear on the student's permanent transcript and, therefore, become a permanent part of that student's file. Disciplinary files are confidential. However, disciplinary history is provided to the appropriate judicial body if subsequent violations occur. Students may inspect their educational records at reasonable times in accordance with the Colleges' Educational Records Policy. These records may also be inspected by Colleges' officials and will be released only in accordance with the Colleges' Educational Records Policy.

In addition to any investigation documents, student records and personnel records which the Colleges determine are necessary to maintain, for matters involving employees, summary records of all complaints are kept without identifying characteristics in the Office of the Director of Human Resources. For matters involving students, summary records of all complaints are kept without identifying characteristics in the Office(s) of the Dean(s) of the student(s) involved.

Constitution of the Board and Panels

Sexual Grievance Board

Membership: The *Sexual Grievance Board* has fourteen (14) members: four elected students (two from each of the respective student bodies), four elected faculty members (two male and two female,

at least two of whom are tenured), four elected staff members (one must be union), a representative from Security, and the Sexual Grievance Officer. Two student, staff, and faculty alternates may also be elected at the discretion of their respective bodies. A representative from the Dean's office at Hobart College, and a representative from the Dean's office at William Smith College, will serve as *ex officio*, non-voting members of the Sexual Grievance Board, and may not serve on a Sexual Grievance Panel. To the extent possible, the membership of this group will be representative of the diversity of our community.

The first constitution of the Sexual Grievance Board may deviate, in the Colleges' sole discretion, from these requirements; the first constitution of the Board shall be referred to as the Interim Sexual Grievance Board. If the Interim Sexual Grievance Board contains fewer than 14 members, the ratio of faculty to staff to student members shall apply as set forth in the above paragraph. The Interim Board must contain a representative from Security and the Sexual Grievance Officer (as defined below) and the *ex officio* members described above. When the Board is fully constituted as described in the above paragraph, the Interim Board shall be dissolved.

Sexual Grievance Officer: The Director of Human Resources is designated as the Employee Sexual Grievance Officer (ESGO) and the Associate Dean of Student Services will serve as the Student Sexual Grievance Officer (SSGO) and both will serve as Chairs of the Sexual Grievance Board. In the absence of the Director of Human Resources or the Associate Dean of Students, the President may designate a Deputy SGO. The Chairs keep a summary record of all appeals and decisions of the Board, its panel, and its member relevant to the Sexual Harassment Policy. The Chairs shall also produce an annual report of the Board's activities, which shall be maintained by the Chairs and shall be used, in part, to determine the effectiveness of the policy and the Board's activities.

Terms: Student members of the Board serve for two years and must have completed their first year before being eligible to serve of the Board. Faculty and staff members of the Board serve for three-year terms and must have completed at least one year of employment at the Colleges before serving. It will be typical for at least one third of the Board will be elected or re-elected annually.

Employee Grievance Panel: The Employee Grievance Panel will consist of three Board members, selected as complaints present themselves: the Student Sexual Grievance Officer (the Chair of the Panel), one staff member and one faculty member from the Sexual Grievance Board. The ESGO will serve as a non-voting advisor to the Panel and will attend the hearing. Either the Chair or the non-voting advisor to the Panel may recess the hearing at any time.

Student Grievance Panel: The Student Grievance Panel will consist of five Board members, selected as complaints present themselves: the Director of Human Resources (the Chair of the Panel), two students (a student from Hobart and a student from William Smith) and two employee members consisting of one faculty member and one staff member. The SSGO will serve as a non-voting advisor to the Panel and will attend the hearing. Either the Chair or the non-voting advisor to the Panel may recess the hearing at any time.

Process Advisors: Both the complainant and the respondent may have a process advisor from the Colleges to explain the policy, procedures, rules and protocols and to assist them in the preparation of their complaints before a hearing is held. Process advisors shall not address the hearing panel or question witnesses.

Conflicts of Interest: In every complaint, each Board member is expected to identify if he or she has a conflict of interest, and in such event will not be appointed to the complaint by the Board. A Respondent or Complainant may file an objection with the Sexual Grievance Officer and request a substitution if he or she believes that an appointment member of the Panel has a conflict of interest. In the event the objection is sustained, the Board will make a substitute appointment. A majority of the

Board shall have sole authority to determine whether a panel member should not be appointed to a complaint.

Notification of Hearing Panel Members: The complainant and the respondent shall be informed of the names of the members of the hearing panel scheduled to hear the complaint not fewer than three business days prior to the hearing. The complainant and/or the respondent may object to the membership of the hearing panel only for reasons of official or personal conflict. Objections shall be submitted in writing to the Sexual Grievance Officer not less than one business day after receiving the names of the hearing panel members. The Sexual Grievance Officers shall make the final determination about panel membership.

Interpretation and Revision: Any question of interpretation regarding the Sexual Misconduct Policy shall be referred to the Sexual Grievance Officers or designee for final interpretation. A review of the Sexual Misconduct Policy shall be coordinated by the Sexual Grievance Officers each of the first two (2) years and every three (3) years thereafter, however, the Sexual Misconduct Policy may be revised whenever deemed appropriate or necessary by the Colleges.