Title IX Working Group

Executive Summary

July 14, 2016

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Over the past several months, the St. Olaf College community has been engaged in a rigorous debate about how the college can best address the issue of sexual assault. The Title IX Working Group was formed to evaluate the college's policy and practices and to provide recommendations for improvements.

Formation of the Working Group

Responding to student and alumni concerns, and recognizing the benefits of continued review and improvement, the college asked the U.S. Department of Education's Office for Civil Rights (OCR) to conduct an independent review of its Title IX policy. On April 6, the OCR notified the college of its decision to decline the review, indicating that such technical assistance is not provided by the OCR.

Because this avenue for independent review was not available and in response to community concerns, President David Anderson announced on April 7 that St. Olaf would establish an independent Title IX Working Group. The Working Group was charged with critically reviewing the college's policy and procedures, seeking input from the community and making recommendations for policy changes to be implemented by the start of the 2016-17 school year.

The 10-member Working Group included students, faculty, staff, alumni, campus confidential resources, victim advocates and Title IX experts and was chaired by a member of the Board of Regents. Early in the process, the group retained Gina Maisto Smith and Leslie M. Gomez, two nationally recognized, expert Title IX attorneys from Pepper Hamilton LLP, a Philadelphia-based law firm. Ms. Smith and Ms. Gomez have helped colleges and universities across the nation, including University of Virginia, Baylor University, the University of Colorado system, the University of North Carolina at Chapel Hill, Occidental College, Amherst College and Grinnell College. They served as independent advisors for the Working Group and were not retained to represent the college.

Process

All Working Group members received training on the dynamics of sexual assault, Title IX and St. Olaf-specific policy. Training included legal requirements; trauma-informed training and the neurobiology of sexual assault trauma; obligations after an institution receives a report of sexual violence; and requirements for a prompt, equitable and impartial complaint process.

Group members engaged in an intense listening period. We received input from 134 people through an online form, hosted a student forum attended by more than 200 students, participated in a faculty and staff Title IX workshop, and met with 10

students and alumni who had experienced the college's Title IX process firsthand, as either a complainant or respondent.

The Working Group met with several members of the "Grey Shirts," a group of students who have been strong advocates for Title IX policy changes on campus. (This group of students refers to themselves as the "Grey Shirts" and have given us permission to use this name.) They presented thoughtful, articulate and well-researched recommendations.

Early in the listening phase, group members met with St. Olaf's Title IX Team, which includes the Title IX Coordinator, members of the Dean of Students Office, and other staff advisors.

The Working Group learned from members of on- and off-campus organizations that provide support to victims of sexual assault and diverse communities, including:

- Sexual Assault Resource Network (SARN)
- HOPE (Healing Outreach Prevention Education) Center
- Boe House
- *It's On Us*
- Center for Multicultural and International Engagement
- GLOW (Gay Lesbian Or Whatever)
- Gender & Sexuality Center
- College Ministry
- Northfield Police Department

Throughout the listening phase, the Working Group heard a clear call to action from alumni, students, parents, faculty and staff who shared concern about St. Olaf's process for responding to allegations of sexual assault. It became clear to the Working Group that St. Olaf needs to provide more education, greater accountability, and better communication – in addition to improved policy – on the issue of sexual assault.

Overview of Pepper Hamilton Engagement

Throughout the listening phase, Ms. Smith and Ms. Gomez of the Pepper Hamilton firm also advised the Working Group on the Title IX legal and regulatory framework; provided information about promising, effective and trauma-informed practices; and served as an external and objective resource for the Working Group.

At a high level, Ms. Smith and Ms. Gomez observed that the college had taken substantial steps in recent years to provide a thoughtful and intentional institutional response to sexual assault. They were impressed with the energies and efforts of the college's student affairs administrators and other members of the Title IX Team, and shared that the implementers with whom they met were open to finding ways to improve the process.

Ms. Smith and Ms. Gomez shared their opinion that St. Olaf's existing policy and practices provide a strong foundation, but like many colleges, St. Olaf could benefit from additional improvements to strengthen and enhance their effectiveness. They felt that we were starting from a position of strength, which we could build upon to enhance our policy and processes.

Values

We find that the values that have governed our process as a Working Group echo the Lutheran tradition of St. Olaf College. Our Lutheran tradition is one of grace and reconciliation; healing and hope; and equality and invitation. Lutherans seek to love and serve their neighbors with compassion. This is not the exclusive calling of individuals, but also the vocation of institutions. In other words, it is the vocation of our college to be a place of welcome and wholeness.

The policy, practices, support and prevention recommendations made are provided to help promote a safe, harassment-free environment at St. Olaf College.

Recommendations

The Working Group's recommendations seek to improve St. Olaf's Title IX policy and practices to enhance the college's prevention efforts focused on student safety, and ensure a consistent, caring and competent response to minimize future pain experienced by individuals affected by sexual assault.

The recommendations, which were approved unanimously by all members of the Working Group, are organized in 10 broad categories with specific, actionable strategies. The 10 categories do not stand alone and are not listed in order of importance. Instead, they are all pieces of an integrated approach to improving St. Olaf's Title IX policy and procedures and enhancing prevention efforts and resources for support. Some recommendations fit in multiple categories and are repeated within the document.

Following is a brief summary of the Working Group's recommendations. A more comprehensive explanation of the community's concerns, our deliberations and our specific recommendations is available in the full report.

1. Title IX Team and Leadership

- Create a **full-time Title IX Case Manager** to assume intake responsibilities and case management of Title IX matters; to establish a protocol for consistent communications with complainants and respondents; to ensure consistent and caring responses; and to provide all parties with easy access to the support services they need. The Title IX Case Manager would report directly to the Title IX Coordinator and work closely with existing on-campus resources, including the Dean of Students Office, Boe House, the Department of Public Safety, the Academic Support Center and other support resources on campus.

- Adopt a **multi-disciplinary team approach** through a standardized review process, coordinated by the Title IX case manager, for all sexual and gender-based harassment and violence matters brought to the college's attention.

- Track the frequency and types of **training** received by the Title IX Team and make this information publicly available.

- Continue to explore ways to ensure that the Title IX Team is **highly visible and accessible** to the campus community through the website, campus events, and other activities.

2. Title IX Policy Revisions

- Continue to use an **affirmative consent** definition. Revise training materials to include verbal consent as the preferred and safest way of ensuring the existence of consent and include examples that accurately describe nonverbal consent in a manner that demonstrates the limitations of nonverbal communication.

- Review and update the **definitions** provided in the Title IX policy, including stalking, incapacitation, coercion, domestic violence, dating violence and incapacitation.

- Revise Title IX policy language to be **gender neutral**.

- Identify areas where the **complaint resolution process** can be accomplished with more compassion, such as providing an easily accessible online mechanism for anonymous reporting and providing alternatives to requiring victims to write descriptions of the events during the intake and investigation process.

- Strengthen and explain the connection between the college's Title IX and **Consensual Relations** policies.

3. Title IX Reporting and Intake Process

- Establish a **protocol for consistent communications** with complainants and respondents.

- Empower the Title IX Coordinator and select Title IX Team members with **real-time engagement** and oversight of the following aspects of the Title IX process: reporting; the provision of interim measures; the evaluation of a request for anonymity by the complainant; the determination of how to

proceed; and the determination of effective steps to eliminate, prevent and address the effects of reported misconduct.

- Task the Title IX team with completing an **initial assessment** of every report and documenting the steps taken and information considered. As part of the initial assessment, a consistent process should be developed to evaluate a complainant's request for anonymity; determining the appropriate course of action; and documenting the facts and circumstances that inform the college's determination.

- Create a Title IX Team **intake checklist** to ensure that complainants and respondents are consistently provided with required information about reporting options, resources, interim measures and policy statements.

- Develop Title IX Team protocols for **documenting information** and consider systems for efficient and coordinated record keeping and tracking of all informal and formal reports involving students, staff and faculty.

- Create an **anonymous reporting** process.

- Provide **clear and transparent information** to the college community about how to make a report, access resources and seek information regarding college processes.

4. Title IX Complaint Resolution Process

- Continue to use **trained and experienced investigators** for Title IX matters, prioritizing the use of external investigators while retaining the flexibility for internal investigators where appropriate.

- Continue to require investigators to **share a preliminary report** with the parties before any finding is reached and expand the policy to allow the parties to **provide written or oral feedback** to the preliminary report.

- Revise the policy to require **investigators to make the determination of responsibility**.

- Revise the policy to allow both parties to **challenge the investigative finding**.

- Create an **adjudicative panel**, consisting of the Dean of Students and the Associate Dean of Students Director of Residence Life, who will review appeals and determine sanctioning. (Parties would have the opportunity to meet with the adjudicative panel, but a meeting would not be required.)

- Continue, as required by federal law, to allow both parties to have an **advisor of choice** present at any investigative meeting or disciplinary proceeding.

- **Assess** the benefits, challenges, effectiveness and fit of these recommended complaint resolution processes with the St. Olaf community and Title IX obligations after the 2016-17 academic year.

5. Sanctioning in Title IX Cases

- Establish **sanctioning guiding principles** that will be assessed consistently in each case.

- Outline and communicate the **factors that will be reviewed when sanctioning** an individual found responsible for violating the Title IX policy.

- Release **aggregate data about the sanctions** imposed for violations of the college's policy.

6. Accountability for Policy Implementation and Revision

- Conduct a periodic **campus climate survey** to help inform areas of strengths and weaknesses in the college's Title IX policy and practices.

- Create a **Title IX Advisory Group** consisting of a diverse pool of students, faculty and staff to engage with community members; assess communications and training efforts; and share observations to inform the college's annual review of its Title IX policy.

- Conduct (at a minimum) an **annual review** of the Title IX policy to incorporate feedback from the campus climate survey, recommendations from the Title IX Advisory Group and evolving legal considerations.

- Maintain the **Working Group website** as a location for people to submit anonymous feedback and receive information regarding St. Olaf's Title IX processes and practices.

- Develop an **annual communications plan** for Title IX data and activities for the campus community, including the release of Title IX data every three years that includes the number of sexual assault reports, the number of reports that led to review under the college's complaint process, the results of the complaint process and information about the sanctions imposed for violations of the college's policy.

- Track the amount and types of **training** received by the Title IX Team and make this information **publicly available**.

7. Inclusivity and Accessibility of the Title IX policy

- Hire a **Gender & Sexuality Center (GSC) Coordinator** to provide programmatic and educational opportunities for LGBTQ students to help the college proactively address reporting barriers and provide additional support resources to diverse communities on campus.

- Revise Title IX policy to be **gender neutral**.

- Train all people involved in the Title IX process on **implicit bias and effective bias assessment** to ensure such biases are not affecting their role in the administration of the Title IX policy.

- Complete a periodic **campus climate survey**.

- Use **plain language** in the Title IX policy and present it in a manner that is more accessible to all St. Olaf students. Collaborate with students to develop a separate resource that students and others can use as a guide for navigating the college's Title IX policy.

8. Availability and Quality of Support Services

- Retain a trained, paid, non-student **SARN Coordinator** (ideally through a rape crisis center) to serve as an advocate for students, oversee the work and training of SARN advocates, and inform prevention and education efforts.

- Create a **full-time Title IX Case Manager** to assume intake responsibilities and case management of Title IX matters and to establish a protocol for consistent communications with complainants and respondents.

- Evaluate existing training for confidential resources and require Boe House counselors and other confidential resources to complete 40 hours of **trauma and advocate training**.

- Provide **brochures** for students, faculty and staff regarding support services and protocols for reporting sexual assault.

9. Training for the Title IX team and St. Olaf Community

- **Centralize Title IX training and education efforts** through the Title IX Coordinator or a designee.

- Create a comprehensive, intentional training and educational program for **first year students** beyond the online-only "Think About It" program.

- Provide mandatory annual training for **all St. Olaf faculty, staff and students** to clarify Title IX policy and equip members of the community to be proactive resources. Specific training should be offered to the Title IX Team, residence life staff, confidential resources, student organizations and athletic teams.

10. Ensuring Adequate Communication and Transparency in the Title IX Process

- Provide **clear and transparent information** to the college community about how to make a report, access resources and seek information about college processes.

- Establish a protocol for **consistent communications** with complainants and respondents throughout the adjudication process.

- Publish the results of a periodic **campus climate survey**.

- Develop an **annual communications plan** for Title IX data and activities for the campus community.

- Use **plain language** in the Title IX policy and present it in a manner that is more accessible to all St. Olaf students. Collaborate with students to develop a separate resource that students and others can use as a guide for navigating the college's Title IX policy.

- Maintain the **Working Group website** as a location for people to submit anonymous feedback and receive information regarding St. Olaf's Title IX processes and practices.

- **Track and publicize** the amount and types of training received by the Title IX Team.

- Explore ways to ensure that the **Title IX Team is highly visible and accessible** to the campus community through the website, campus events, and other activities.

- Create a **Title IX Advisory Group** consisting of students, faculty, staff and administration to assist the college in conducting an annual review and make recommendations for policy and practice revisions.

On behalf of the St. Olaf Title IX Working Group,

Tim Maudlin '73
Chair, Title IX Working Group
Regent