

came to John's dorm room and initiated sexual intercourse. *Nineteen months* later, Jane reported the first and second encounters to Swarthmore, claiming that she had been coerced. Her only evidence consisted of her own inconsistent accounts of what had transpired and three student witness statements supplied nearly two years after the events at issue, all of which focused on the witnesses' after-the-fact interactions with Jane. Jane offered no physical or medical evidence, and no police or campus public safety reports.

3. Soon after Jane made these accusations, Swarthmore conducted a two-month-long investigation and concluded the matter without issuing charges or taking any disciplinary action against John.

4. Since February 2013, the month after Swarthmore concluded its investigation, Swarthmore and its administration have been publically castigated for allegedly mishandling past sexual misconduct cases.

5. In April 2013, two female students filed complaints with the U.S. Department of Education ("DOE" or "Department of Education") against Swarthmore under Title IX and the Clery Act, alleging, among other things, that the College discourages students from filing sexual misconduct complaints, underreports incidents of sexual misconduct and fails to appropriately discipline sexual offenders. The complaints generated widespread media coverage and reports criticizing Swarthmore's administration and staff.

6. In response to the federal complaints and public criticism, Swarthmore President Rebecca Chopp announced to the press that Swarthmore has "zero tolerance" for any form of sexual assault or abuse.

7. Less than two weeks following the filing of the Title IX complaint, Swarthmore suddenly "re-opened" the investigation of Jane's accusation against John, issued formal charges

against him for sexual assault and sexual harassment, and fast-tracked a College Judiciary Committee (“CJC”) hearing.

8. The CJC Panel decided that John “more likely than not” had violated the College’s sexual misconduct policy. Swarthmore immediately expelled him, three months before his senior year would have begun – and more than two years after the alleged incident took place.

9. In less than one month’s time, the College had “re-opened” the case, charged John with sexual assault and sexual harassment, held a hearing, and summarily expelled him. On information and belief, John’s case was the first case of alleged sexual misconduct heard after the federal complaints were filed.

10. John appealed his expulsion to President Chopp, citing among other things the College’s failure to follow its policies and procedures for disciplinary proceedings, which resulted in a fundamentally unfair hearing.

11. On July 12, 2013, the DOE’s Office of Civil Rights (“OCR”) announced that it would investigate Swarthmore concerning the allegations set forth in the federal complaints.

12. Four days later, President Chopp denied John’s appeal.

13. In its rush to judgment against John in its “re-opened” investigation, the College failed to follow its own policies and procedural safeguards by:

- a. Failing to conclude its investigation within the mandated 60-day period.
- b. Failing to provide John with timely notice of the charges against him.
- c. Failing to schedule the hearing when classes were in session.
- d. Failing to inform John of, and allowing him to exercise, his right to respond in writing to Swarthmore’s investigation report prior to the hearing and to submit such written response into evidence at the hearing.

- e. Failing to provide John with access to the impartial Observer assigned to the case, whose role was to advise John about the charges and the judicial process; instead, John was advised by the College's Associate Dean for Student Life whose task was to determine whether to press charges and, if so, what the charges would be.
- f. Failing to timely present John with Jane's written complaint statements submitted by Jane to the College's Title IX Coordinator in the initial and re-opened investigations, thereby effectively depriving John of his right to complete similar written statements responding to the charges.
- g. Failing to provide John before the hearing took place with, or inform him of, a statement in an email prepared by Jane and permitting Jane to testify about the statement during the hearing.
- h. Permitting the College's Title IX Coordinator to testify at the hearing about that undisclosed statement and to read portions of it into evidence.
- i. Suggesting that and allowing Jane to leave the hearing during a critical part of John's testimony pertaining to what occurred during the encounters at issue.
- j. Failing to exclude from the hearing Jane's testimony concerning John's alleged sexual history.

14. Cases involving alleged sexual misconduct on college campuses overwhelmingly arise from a woman accusing a man. Swarthmore adopted and applied sexual misconduct policies and procedures that disproportionately affect male students and that, in John's case prevented him, from receiving a fair hearing and resulted in the most severe penalties, including expulsion and ruinous notations in his record with potentially life-altering consequences.

15. Through its gender-biased policies, Swarthmore deprived John of basic due process and equal protection rights during the CJC proceedings as follows:

- a. Despite the threat of serious charges and severe sanctions, Swarthmore's policies and regulations prohibit those accused of sexual misconduct from receiving any assistance from legal counsel during CJC hearings. In fact, the only "counsel" available to John was provided by Swarthmore's Associate Dean for Student Life, who was not a lawyer, and who, in addition to providing "counsel" to John, was in charge of advising the accuser of her rights *and* determining whether and which charges should be brought – a clear conflict of interest.

- b. Swarthmore's policies and procedures prohibit students accused of sexual misconduct from challenging the accuser through cross-examination at CJC proceedings, thereby denying the accused the fundamental right to confront his accuser.
- c. Swarthmore took this policy a step further in John's case and placed a physical divider between him and Jane during the proceedings. Thus, John was unable to even observe Jane during her testimony.
- d. The faculty, staff, and student selected for the CJC Panel in John's case were biased from the outset and lacked the impartiality necessary to render a fair and equitable ruling. Panel members were visibly emotional during Jane's testimony and allowed her to violate Swarthmore's own policies concerning admission of evidence and attendance. In contrast, the "rules" were strictly applied to John.
- e. The CJC Panel applied a "preponderance of the evidence" standard. Because the evidence at the hearing almost exclusively consisted of each party's "he said, she said" testimony, with no physical, medical or corroborating evidence, and because the College was under scrutiny from the media and Department of Education with respect to its handling of previous sexual misconduct proceedings, this low evidentiary standard unfairly skewed the proceedings and resulted in a virtually pre-determined finding in favor of Jane.
- f. Given the sharp public criticism of Swarthmore, the initiation of a federal investigation, and President Chopp's announcement to the press of a "zero tolerance" policy, Swarthmore's administration lacked the impartiality necessary to provide John with an equitable review of the CJC's findings and unjustifiably severe sentence.
- g. The CJC's findings, the decision to expel John, the denial of John's appeal, and Swarthmore's policies and procedures disproportionately affected John due to his gender.

16. As a result of Swarthmore's conduct, John sustained severe damages, as his academic future, career prospects, earning potential, and reputation have been injured, if not entirely destroyed. The money, time and effort John spent obtaining a college education at Swarthmore and fostering relationships with the Swarthmore community are lost. The adverse mark on his record resulting from false accusations made nineteen months after the alleged misconduct took place jeopardizes, if not shatters, his goal of attending law school and/or pursuing a joint graduate degree.

17. For these reasons, John brings this action to obtain relief based on Swarthmore's clear violations of Title IX of the Education Amendments of 1972 and applicable Pennsylvania law.

II. PARTIES

18. Plaintiff John Doe (hereinafter "John") resides in North Carolina. During the events described herein, John was a student at Swarthmore College.

19. Defendant Swarthmore College (hereinafter "Swarthmore" or "College") is a private, liberal arts college with a principal address of 500 College Avenue, Swarthmore, Pennsylvania 19081. Swarthmore was founded as a coeducational college by a committee of Quakers and established to be a college "under the care of Friends, at which an education may be obtained equal to that of the best institutions of learning in our country," where students would be provided with "intellectual and moral training." ("Founders and the Quaker Tradition," *Swarthmore College Website*. <http://www.swarthmore.edu/news/history/index1.html>).

20. Swarthmore is among the most elite of liberal arts colleges in the United States. In its 2013 college ranking, U.S. News & World Report ranked Swarthmore as the 3rd best liberal arts college in the nation, behind Williams and Amherst, respectively. Since the inception of the U.S. News rankings, Amherst, Williams, and Swarthmore are the only colleges to have been ranked # 1 on the liberal arts rankings list, with the three colleges often switching places with one another each year. Swarthmore has been ranked the number one liberal arts college in the country a total of six times in the rankings. ("National Liberal Arts College Rankings," *U.S. News & World Report*. <http://colleges.usnews.rankingsandreviews.com/best-colleges/rankings/national-liberal-arts-colleges>; "Swarthmore College," *Wikipedia*. http://en.wikipedia.org/wiki/Swarthmore_College).

21. At all times material hereto, Swarthmore acted by and through its agents, servants, employees, and representatives who were acting in the course and scope of their respective agency or employment and/or in the promotion to Swarthmore's business, mission and/or affairs.

III. JURISDICTION AND VENUE

22. Plaintiff invokes this Court's original jurisdiction under Title IX of the Education Act Amendments of 1972, 20 U.S.C. § 1681, *et seq.* and 28 U.S.C. § 1331.

23. Pursuant to 28 U.S.C. § 1391, venue for this action properly lies in this district because a substantial part of the events or omissions giving rise to the claims set forth below occurred in this judicial district.

24. Plaintiff also invokes this Court's jurisdiction over related state common law and statutory claims under the principles of ancillary and/or pendent jurisdiction pursuant to 28 U.S.C. § 1367.

25. Plaintiff also invokes this Court's jurisdiction pursuant to 28 U.S.C. § 1332, diversity of citizenship, with the amount in controversy exceeding \$75,000.00, exclusive of interests and costs.

IV. FACTUAL BACKGROUND

A. John's Decision To Attend Swarthmore.

26. Prior to his enrollment at Swarthmore in August 2010, John was a highly accomplished high school student attending a nationally ranked college preparatory school in North Carolina, where he maintained a 3.94 grade point average on a 4.0 scale and was distinguished as an Advanced Placement ("AP") Scholar for his performance on six AP exams. John scored 5s, the highest score available, in all six AP exams.

27. John's performance on college admission examinations was no different, as he scored a 1490 equivalent on the Math and Writing sections of the Scholastic Assessment Test, placing him in the top one percent of test takers nationwide.

28. John was also involved in numerous extracurricular activities, served as student body president during his senior year, was class president as a junior, was a member of the varsity cross-country team, participated in high school and community theatre productions, and volunteered at numerous public interest organizations.

29. Armed with his academic record, activity participation, and exam scores, John was capable of enrolling in the nation's top universities and colleges and considered attending Dartmouth College, Middlebury College, and Carleton College. John's parents had attended Swarthmore, graduated together, returned there to get married, and retained a great fondness for the school. Given Swarthmore's reputation and his parents' experiences as Swarthmore alumni, John selected Swarthmore and submitted an early decision application to the College in November 2009.

30. He was accepted by Swarthmore a month later and spent the remainder of his senior high school year preparing for his undergraduate education, the first step in his goal to attend law school or graduate school at a top-flight university.

B. Swarthmore's Policies And Procedures Governing Disciplinary Proceedings.

31. Both the Swarthmore College Official Student Handbook 2012-2013 ("Student Handbook") and College Bulletin set forth Swarthmore's policies and procedures for the investigation and adjudication of alleged disciplinary violations, including alleged violations of the College's sexual misconduct policy.

32. The Student Handbook broadly states:

Swarthmore College is committed to the principle of equal opportunity for all qualified persons without discrimination against any person by reason of sex, race, color, age, religion, national origin, sexual orientation, gender identity or expression, disability, or any other legally protected status. In keeping with the long-standing traditions of the College and the spirit and letter of the federal and state equal opportunity laws, we affirm the standing policy of the College to realize equality of opportunity in education and employment; to guard against discrimination contrary to that aim; and to correct discriminatory behavior if found to exist within the College community.

(See Student Handbook, attached hereto as Exhibit “A,” at 34).³

33. The Student Handbook provides that sexual misconduct allegations shall be referred to the Title IX Coordinator, who is charged with conducting the investigation. (*Id.* at 22).

34. The Student Handbook mandates that **“[i]n no case will an investigation last longer than 60 days.”** (*Id.*) (Emphasis added).

35. The Title IX Coordinator must issue and forward an investigation report to the Dean’s office generally within 20 business dates of receiving the complaint, and “[t]he accused and accuser **will have the opportunity to file a written response to the investigator’s report, which will also be included in the evidence**” at any CJC hearing. (*Id.*) (Emphasis added).

36. The Student Handbook states that “[t]he accused student(s) **shall be presented with the written complaint statement**, and in turn may complete a similar statement responding to the charges” (*Id.* Section II(B)(2) at 36) (Emphasis added).

37. The Dean or Associate Dean “shall determine whether a complaint represents a major infraction that shall be heard by the College Judiciary Committee,” in which event the Associate Dean “shall define the relevant charges.” (*Id.* Section II(A) & II(B)(2) at 36). In their

³ For purposes of easier reference, the Student Handbook has been paginated. See Exhibit A.

discretion, the deans may allow the written report from the Title IX Coordinator to “substitute for a written complaint.” (*Id.* Section II(B)(1) at 36).

38. “The reported results of the investigation, and any responses of the accused or complainant,” are considered by the Associate Dean in defining the charges and “are part of the evidence to be used at the CJC hearing.” (*Id.* Section II(B)(2) & II(B)(4) at 36).

39. The Student Handbook requires that “[b]oth the accused and the complainant(s) **shall** be shown a copy of the materials that will be present in the [CJC] hearing in sufficient time before the hearing (normally 48 hours in advance) to prepare for their cases.” (*Id.*) (Emphasis added).

40. An Observer, whose role is to assure “impartiality in the proceedings,” “will meet separately with both the complainant(s) and the accused to explain the procedures and give all a chance to ask questions about the judicial process.” (*Id.* Section II(C)(6) at 38; Section II(E) at 39).

41. The Student Handbook also sets forth policies and procedures governing the CJC hearing.

42. The CJC hearing is conducted by a seven-person Panel consisting of a Convener, two faculty members, one staff member, two students, and the Observer. (*Id.* Section II(E) at 38).

43. With respect to the timing of the hearing, the Student Handbook states:

The hearing shall be held as expeditiously as possible while providing sufficient time for both sides to prepare for the hearing. An effort is made to schedule the hearing when the accused and complainant can reasonably attend. Supporter and witness schedules are considered, but their unavailability will not be the sole factor in selecting the timing of the hearing. **Hearings are scheduled when classes are in session and not during college breaks.** In the event that a complaint is filed during a break period

or within the final week prior to a break, the Associate Dean in consultation with the Dean, will determine whether the hearing will be scheduled when classes resume or if the complaint should be referred to a dean or other appropriate office for more immediate adjudication.

(*Id.* Section II(C)(3) at 37) (Emphasis added).

44. With respect to informing the accused of the charges against him, the Student Handbook requires that the Associate Dean or designee define the relevant charges and that the Observer inform the accused of the charges generally three days in advance of the hearing:

The Associate Dean or designee shall define the relevant charge(s). The charges are based on the published regulations in effect at the time of the infraction. **The student charged shall meet with the Observer and be informed of the charge(s) and directed to a copy of the student judicial system procedures generally three days in advance.** The formal charge letter shall be presented in writing including the names of the appointed panel, the time, date, and location of the hearing typically 24 hours in advance of the hearing.

(*Id.* Section II(C)(5) at 37; Section II(E) at 39) (Emphasis added).

45. With respect to attendance at the hearing, the Student Handbook requires that “[a]ccuser and accused are present.” (*Id.* Section II(E) at 39) (“Accuser and accused are present: Normally, all evidence presented at a hearing by either party shall be introduced in the presence of the other party.”); attendance by others “will be limited to members of the Judiciary Committee, the Convener, the Observer . . . one supporter each for both the accused and the accuser, if requested, and the witnesses as they are called.” (*Id.* Section II(D) at 38).

46. With respect to disclosure of witnesses to be called at the hearing, the Student Handbook provides that “the accused student and the complainant must submit to the Observer a list of witnesses they plan to call at the hearing along with a brief statement describing to what aspects of the incident(s) in question each witness will be testifying. Written statements by the

witnesses shall be presented to the Observer 48 hours before the hearing.” (*Id.* Section II)(C)(7) at 38).

47. With respect to disclosure of the evidence to be presented at the hearing, the Student Handbook requires that “[a] file containing relevant evidence for the case will be available in the Dean’s Office for review by the parties . . . involved, but it cannot be removed or photocopied.” (*Id.* Section II(C)(8) at 38).

48. “Statements made during the investigation by the accused generally are not shared at the hearing unless made public by the accused.” (*Id.*).

49. With respect to evidence of prior sexual conduct, the Student Handbook provides that “[t]he complainant(s) and the accused shall have the . . . right . . . to have past sexual history excluded from the hearing process.” (*Id.* Section II(C)(2) at 37).

50. In addition to these purported procedural protections afforded to the accused, Swarthmore’s policies include several significant limitations on rights afforded to those accused of sexual misconduct.

51. Swarthmore’s policies prohibit those accused of sexual misconduct from receiving any assistance of legal counsel during CJC proceedings. (*Id.* Section II(C) at 36-37) (imposing strict confidentiality on the parties “before, during, and after the hearing” and limiting disclosure of information to the parties’ supporters, family, physician, therapist or counselor).

52. Swarthmore’s policies prohibit those accused of sexual misconduct from challenging the accuser through cross-examination at CJC hearings. (*Id.* Section II(F) at 39) (“The complainant and the accused generally are not allowed to question each other during the hearing.”).

53. Swarthmore's policies require that the CJC Panel base all decisions on "whether it is more likely than not that the accused has violated the Student Code . . .," thereby applying the low "preponderance of the evidence" standard, even for the most serious of charges with the most severe potential punishments. (*Id.* Section II(F) at 40) (Emphasis in original).

54. The College Bulletin (attached hereto as Exhibit B) states in relevant part:

Swarthmore College does not discriminate in education or employment **on the basis of sex**, race, color, age, religion, national origin, marital status, sexual orientation, gender identity or expression, veteran status, medical condition, pregnancy, disability, or any other legally protected status. **This policy is consistent with relevant governmental statutes and regulations, including those pursuant to Title IX of the Federal Education Amendments of 1972** and Section 504 of the Federal Rehabilitation Act of 1973.

(*See* Exhibit B at 2) (Emphasis added).

55. With respect to Swarthmore's Student Judicial Procedures, the College Bulletin states:

The College community also has a responsibility to protect the possessions, property, and integrity of the institution as well as of individuals. The aim of the College's Student Judicial Procedures is to balance all these rights, responsibilities, and community values fairly and efficiently.

(*Id.* at 49).

C. **John's Academic Record, Achievements, And Participation In Extracurricular Activities While Attending Swarthmore.**

56. From the outset, as he did in high school, John excelled academically at Swarthmore and immediately become involved in a host of extracurricular activities.

57. John majored in history with Spanish and political science minors, maintained a 3.87 grade point average and participated in Swarthmore's Honors Program. Honors Program

participation is contingent on a student candidate's grade point average and requires the approval of Swarthmore's faculty.

58. John was also awarded a merit-based scholarship at Swarthmore due to his interest and academic performance in Classical Studies.

59. John continued to pursue his love of performance art at Swarthmore and participated in an a cappella group and a chamber music ensemble, and directed a one-act play.

60. John volunteered to participate in the study of Ancient Hebrew (without course credit), contributed to a literary publication distributed by Swarthmore's Modern Languages Department, and served as a volunteer translator at a Philadelphia-based non-profit organization that works to protect the rights of the Latino-immigrant community.

D. Any And All Sexual Contact Between Jane And John Was Consensual.

61. John and Jane both participated in a coeducational a cappella group at Swarthmore where members are given the opportunity to arrange music and perform it on and off campus. The two became acquainted during the group's auditions, rehearsals and performances.

62. In the course of their relationship, Jane and John engaged in three physical encounters – one kiss, one sexual interaction without intercourse, and one act of intercourse which Jane, by her own admission, initiated and willingly participated in.

63. The first encounter followed an a cappella group party that took place in a student's dorm room on Friday, April 22, 2011. After leaving the party to talk in the hallway about their dating relationships and their current significant others, Jane and John kissed. Both willingly engaged in this interaction and at no time did Jane express, through words, conduct or otherwise, that she did not wish to kiss John.

64. After the kiss, the two continued their friendly conversation before returning to their respective dorm rooms.

65. The second physical interaction took place one week later, on Friday, April 29, 2011. The two communicated through text messages throughout the evening and, at approximately 10:30 p.m., Jane asked that John join her in her dorm room because she was studying alone that night and wanted his company. John, who was writing a political science position paper due the following Monday, consented and arrived at Jane's room shortly thereafter.

66. Initially, this interaction was platonic and the two had intermittent casual conversations during study breaks. John consumed no alcohol that night and, as far as he knew, neither did Jane. Jane did not exhibit any signs of even minor intoxication and, at approximately midnight, she prepared coffee for the two to continue to study.

67. Soon thereafter, Jane and John kissed for the second time. This kiss was followed by various consensual sexual activities between the two which took place until approximately 4:30 a.m. on Saturday, April 30, 2011. At no point did Jane request, verbally or otherwise, that she or John stop these activities and both were willing participants. The pair did not engage in sexual intercourse. At approximately 7:00 a.m., the two parted on friendly terms and John returned to his dorm room.

68. On Sunday, May 1, 2011, Jane and John exchanged a number of friendly electronic messages.

69. In the course of these communications, Jane told John that she had informed her boyfriend of her sexual activities with John. At 3:40 p.m., John received a threatening email

from Jane's boyfriend, stating among other things, that the boyfriend owned a gun and that Jane had dissuaded him from killing John outright.

70. John was stunned and understandably uncomfortable after receiving this email.

71. Shortly thereafter, Jane contacted John and asked if she could come over so the two could talk in light of the email. John, who was still shaken by her boyfriend's email, reluctantly agreed and Jane arrived at his dorm room moments later.

72. Upon her arrival, John asked Jane about a suggestion in her boyfriend's email that he had, in some way, taken advantage of her. By Jane's own admission, she responded that she did not know why her boyfriend suggested misconduct by John. Jane told John that her boyfriend was irrational after receiving the news and that she disliked this aggressive side of him.

73. By Jane's own admission, she then requested that the two have sexual intercourse. While John was reluctant to do so, he agreed after Jane promised not to tell her boyfriend. Notwithstanding Jane's various, changing accounts of what occurred between her and John in their previous encounters, Jane's statements relating to this incident have remained constant – both she and John were sober; she propositioned John; and the two engaged in consensual sexual intercourse.

74. After this incident, the two communicated with less and less frequency and had no further sexual interaction.

75. In August 2011, at the start of the following semester, Jane sent John a Facebook message informing him that she was planning to leave the a cappella group. In the message, Jane told John that her decision to quit was due to financial concerns and related stress and had

nothing to do with him. In response, John thanked her for sharing the information with him and told her that he understood her decision.

76. Thereafter, the two communicated intermittently, primarily through Facebook. In or about January 2012, in an unsolicited message to John, Jane claimed that her August 2011 Facebook message was a lie and that she left the a cappella group because of him. Confused by Jane's message, John "unfriended" her on Facebook, terminating her ability to communicate with him through the site's chat and message functions.

77. Their last conversation was in May 2012 when, during a student party, Jane asked that the two speak. John hesitantly consented and followed her to the dormitory lounge. Here, Jane apologized to John for her erratic behavior and told him that she hoped he was doing well. John expressed the same to Jane and the two hugged and parted ways.

E. Jane Submits A False Complaint To Swarthmore Nineteen Months After The Alleged Incident.

78. In November 2012, Jane was in Scotland studying abroad with her boyfriend – the same man who had threatened John in May 2011. *Nineteen months had passed* since Jane's sexual encounters with John, and she had not spoken to him for at least six months.

79. On November 24, 2012, Jane sent an email to Swarthmore's then-Title IX Coordinator, Sharmaine B. LaMar, Esquire, alleging that John had sexually assaulted her.

80. Specially, Jane stated that her initial kiss and first sexual encounter with John occurred on the same night (following the April 22, 2011 party) while she was drunk; that the interaction involved various sexual activities but not sexual intercourse; and that both the kiss and these sexual activities were the result of coercion by John. Jane admitted that she initiated consensual sexual intercourse with John several days after his alleged sexual misconduct occurred.

81. As Swarthmore's Title IX Coordinator, Ms. LaMar was tasked with conducting investigations concerning alleged sexual misconduct and preparing reports for each matter to be used as evidence in potential CJC hearings. (*See* Exhibit A, Section II(B)(4) at 36). At the time of Jane's complaint, Ms. LaMar also served as Swarthmore's Assistant Vice President for Risk Management and Legal Affairs.

82. Ms. LaMar was relieved of her Title IX duties following a third-party review of Swarthmore's sexual misconduct policies initiated by President Chopp. The third-party review recommended that Swarthmore create an "independent Title IX Coordinator position" and the College immediately acquiesced. (Letter from Margolis, Healy & Associates LLC to President Chopp, dated July 16, 2013).

F. Swarthmore's First Investigation Is Conducted And Concluded Without Charges Or Disciplinary Action.

83. On November 28, 2012 – one year and seven months after the alleged incident – Swarthmore opened an investigation concerning Jane's accusations.

84. When Jane made these allegations and the investigation was initiated, John was studying abroad in Argentina.

85. On December 3, 2012, Ms. LaMar informed John of the allegations via email, and the following day, Ms. LaMar and Joanna Gallagher, Associate Director of Public Safety, interviewed John via Skype.

86. John was shocked and angered by Jane's accusations but immediately cooperated with Ms. LaMar and Ms. Gallagher in the interview.

87. John provided a detailed account of the three encounters – the initial kiss, the initial sexual encounter, and the subsequent sexual intercourse initiated by Jane – including what occurred, whether alcohol was consumed, and dates and times when each interaction took place.

88. At the conclusion of the interview Ms. LaMar asked that John provide her with a written statement of his account to be used for the investigation and in the event of a hearing.

89. On December 4, 2012, John provided Ms. LaMar with a written statement. Ms. LaMar did not present John with a copy of Jane's written complaint statement (*i.e.*, Jane's November 24, 2012 email statement), and thus John could not respond to the accusations contained in Jane's written statement. Nevertheless, his statement was consistent in all substantive respects with the information he had provided to Ms. LaMar and Ms. Gallagher in the interview.

90. On December 10, 2012, Ms. LaMar asked John for a second interview. John immediately cooperated. In the interview, Ms. LaMar informed John that Jane had revised her timeline of events to reflect dates consistent with John's account.

91. In the second interview, John again recounted in detail for Ms. LaMar everything that had happened between him and Jane. His description of what transpired remained unchanged and consistent with his first interview and written account, and he continued to vehemently deny all allegations of sexual misconduct or impropriety.

92. One week after the second interview, Ms. LaMar emailed John to thank him for his cooperation. (Email from Sharmaine LaMar to John Doe, dated December 17, 2012 titled "Thank you for your cooperation!").

93. As with all of her correspondence with John, Ms. LaMar signed her email as "Shar" and offered words of encouragement to John. (*Id.*) ("When we spoke last week, I think I failed to thank you for being very cooperative through all of this.... **I want to reassure you that the process is fair and balanced**") (Emphasis added).

94. These interactions with Ms. LaMar led John to regard Ms. LaMar as his advocate, rather than as the investigator in charge of soliciting information that might lead to disciplinary action against him.

95. On January 28, 2013, Swarthmore concluded its investigation into Jane's accusations. John was not charged with any disciplinary violations. John believed he had been justly cleared of any wrongdoing and turned his attention back to his studies.

G. Swarthmore "Re-Opens" The Investigation After Media Scrutiny And Federal Complaints Target Swarthmore's Sexual Misconduct Record.

96. Beginning in February 2013, a month after the investigation of Jane's accusations against John was concluded, Swarthmore and its administrators have become the subject of public scrutiny and sharp criticism by the local and national media for the College's perceived mishandling of past sexual misconduct cases.

97. As published details and accounts of Swarthmore's misconduct and negligence continued to grab media headlines, female students filed two complaints with the U.S. Department of Education against the College – a Clery Act complaint on April 18, 2013 and a Title IX complaint on April 25, 2013.

98. On May 7, 2013, nine days after the Title IX complaint was filed, and amid growing negative publicity with respect to its sexual misconduct record, Swarthmore "re-opened" its investigation of Jane's accusations against John, without explanation and in violation of its own procedures, which state that "[i]n no case will a sexual misconduct investigation last longer than 60 days." (*See* Exhibit A at 22).

99. The table below is arranged in chronological order and sets forth the media reports and events leading up to Swarthmore's decision to "re-open" the investigation against John.

DATE/EVENT	SYNOPSIS	SOURCE
02/26/2013 Article – "Greek Life Discussions Underway"	When discussing their concerns regarding Swarthmore's fraternities, students express the need for "stronger repercussions" for sexual offenders and criticize the administration for failing to respond to complaints in a timely manner.	<i>Daily Gazette</i> . http://daily.swarthmore.edu/2013/02/26/crowded-greek-life-discussion/ (accessed January 17, 2014).
04/05/2013 Two students, Hope Brinn and Mia Ferguson, are approached by a Swarthmore employee and asked if they were aware of "sexual assault cover-ups."	Brinn/Ferguson contend that an unnamed staff member informed them he or she "hear[d] stories of the College systematically not documenting or investigating reports of sexual assault and, in one instance, destroying evidence associated with a sexual assault case."	<i>Daily Gazette</i> . http://daily.swarthmore.edu/2013/04/19/clery-complainants-join-national-movement-against-sexual-assault-to-file-title-ix-complaints/ (accessed January 17, 2014).
04/15/2013 Article – "Brought to Light: Survivor Speaks, CJC Case Still Unfinished"	Reports that Swarthmore has never expelled or "officially disciplined" a student for sexual misconduct. Reports that in Spring 2011 a student was found guilty of sexual assault but the accuser was allowed to "le[ave] the College in good standing" and was able to transfer to another school. Recites the victim's account of Swarthmore's response to her initial report and notes that a Swarthmore administrator was "cold" and made her "feel uncomfortable."	<i>Daily Gazette</i> . http://daily.swarthmore.edu/2013/04/15/brought-to-light-part-one/ (accessed January 17, 2014).
04/15/2013 Swarthmore – Statement to the Community	In her "Statement to the Community," President Chopp states, "Based on the significant concerns that students have raised about sexual misconduct on our campus, and, in particular, about how sexual assault cases are handled, I have decided to seek an external	"Independent Review of Sexual Assault Process." http://www.swarthmore.edu/sexual-assault-resources/statements-

	<p>review of all of our policies, procedures, and sanctions related to sexual misconduct.”</p> <p>President Chopp further notes that she is, “...deeply concerned and troubled by the lack of trust that exists among some students about our reporting procedures, our judicial process, and other aspects of our approach to addressing sexual assault on campus.”</p>	<p>to-the-community/independent-review-of-sexual-assault-process.xml (accessed January 17, 2014).</p>
<p>04/17/2013</p> <p>Article – “Brought to Light: Accused Walks, College Demands Silence”</p>	<p>Reports that after a Swarthmore student was raped and reported the incident, administrator suggested that she “write a letter to [her assailant]” and informed her that “Swarthmore doesn’t expel students for sexual assault.” Reports that during the subsequent CJC hearing, the administrator “questioned her emotional stability” and determined there was “insufficient evidence” to impose sanctions. Also notes that administrator was “cold and seemed skeptical of her story.”</p>	<p><i>Daily Gazette.</i> http://daily.swarthmore.edu/2013/04/17/brought-to-light-part-two/ (accessed January 17, 2014).</p>
<p>04/18/2013</p> <p>Hope Brinn and Mia Ferguson file Clery Act complaint with the U.S. Department of Education (DOE) against Swarthmore</p>	<p>Brinn /Ferguson file a complaint against Swarthmore College for violating the Clery Act. The complaint sets forth testimony from ten additional students and alleges that Swarthmore: (1) discourages students from reporting crime to local enforcement; (2) underreports incidents of sexual misconduct to the Annual Clery Security Report; (3) underreports incidents of sexual misconduct in the daily crime log; (4) fails to issue timely reports of incidents of sexual misconduct; (5) fails to publically report sanctions for sexual misconduct; and (6) intimidates, discriminates and retaliates against sexual assault advocates and their advocates.</p>	<p><i>Daily Gazette.</i> http://daily.swarthmore.edu/2013/04/18/12-students-file-federal-complaint-against-college-for-clery-violations/ (accessed January 17, 2014).</p>
<p>04/19/2013</p> <p>Article – “2 More Colleges Accused of Mishandling Assaults”</p>	<p>Reports on the filing of the Clery Act complaint against Swarthmore. Reports that while President Chopp declined to comment directly to the complaint, “she said that Swarthmore has acknowledged flaws in its record and has been trying to address them.” President Chopp is further quoted as stating, “We’ve made changes in policies, we’ve provided more support and more training,</p>	<p><i>New York Times.</i> http://www.nytimes.com/2013/04/19/education/swarthmore-and-occidental-colleges-are-accused-of-mishandling-sexual-assault-cases.html?_r=0</p>

	we've changed some personnel."	(accessed January 17, 2014).
04/19/2013 Article – "Clery Complainants To File Title IX Complaints, Join National Movement Against Sexual Assault"	Reports statements and accounts from Brinn and Ferguson following their Clery Act complaint and notes that, "[s]tudents say they cannot trust the administration to fix a problem they played a leading role in." Brinn states that when she reported incidents of verbal and sexual harassment by a male student, a Swarthmore administrator "laughed at her." Brinn is also quoted as stating the following: "Ultimately the College refused to call it sexual harassment even though it fit all the criteria for sexual harassment ... [Swarthmore] would only call it harassment by communications."	<i>Daily Gazette</i> . http://daily.swarthmore.edu/2013/04/19/clery-complainants-join-national-movement-against-sexual-assault-to-file-title-ix-complaints/ (accessed January 17, 2014).
04/23/13 Article – "Op-Ed: Alumnae Call for Sexual Assault Policy Reform"	Op-ed by four female Swarthmore alumnae states as follows: "When we first heard about the experiences of current student survivors who sought help from the administration, we were filled with sadness because these stories are so familiar: they sound like the stories of survivors from our time at Swarthmore....[t]he judiciary system and administration have failed so many survivors already, and it is shameful that this trend continues." The piece also sets forth a petition titled "Swarthmore Alumni demand improved college response to sexual assault" and asks for support.	<i>Daily Gazette</i> . http://daily.swarthmore.edu/2013/04/23/oped-alumnae-call-for-signatures-for-sexual-assault-policy-reform/ (accessed January 17, 2014).
04/24/2013 Article – "Brought to Light: Two Survivors Report, Accused Withdraws"	Reports that two different women filed sexual assault cases against the same male student but that "two days before the hearing was supposed to take place, he withdrew from [Swarthmore]" and enrolled in another university. The article further states that as a result, "[h]e graduated from another university. Nothing is on his transcript. Nothing is on his criminal record. No one will ever know he was accused of sexually assaulting two women during his time at Swarthmore." Reports that of the four Swarthmore students who have withdrawn from the College pending	<i>Daily Gazette</i> . http://daily.swarthmore.edu/2013/04/24/brought-to-light-two-survivors-report-accused-withdraws/ (accessed January 17, 2014).

	CJC hearings concerning sexual misconduct, three were accused by two or more women. Addressing this statistic, then-Associate Dean of Students Myrt Westphal is quoted as stating, “In those cases, I think the counsel [provided to the accused by administrators] was, ‘I think it’s better that you leave Swarthmore than to have to go through two or three hearings.’”	
04/25/2013 Title IX complaint filed against Swarthmore	Brinn and Ferguson follow-up their Clery Act complaint with a Title IX complaint filed with the DOE’s Office of Civil Rights. In an accompanying press release, Ferguson states that “... Swarthmore College is systematically violating federal law by underreporting crimes and silencing the victims.” Ferguson further notes that as a result of these deficiencies, “Swarthmore might lose some funding...might temporarily lose some prestige and slip in rankings prospective students take into account.”	<i>Philadelphia Inquirer</i> . http://articles.philly.com/2013-05-10/news/39170600_1_sexual-assaults-complaints-clery-act (accessed January 17, 2014). Ferguson Press Release. http://daily.swarthmore.edu/wp-content/uploads/2013/04/Statementattempt-1.pdf (accessed January 17, 2014).
05/02/2013 Article – “College Moves Forward with External Review, Ferguson Remains Hopeful for Change”	President Chopp announces that Margolis Healy & Associates has been selected to conduct the independent external review of Swarthmore’s sexual misconduct policies. Reports that Ferguson has served Swarthmore with a preservation letter to “ensure[] that the College cannot destroy any evidence gathered during an investigation, which can be used if a student wishes to file a lawsuit against the school.” Reports that DOE has confirmed receipt of the Title IX complaint and has also sent a preservation letter to the Swarthmore.	<i>Daily Gazette</i> . http://daily.swarthmore.edu/2013/05/07/20351/ (accessed January 17, 2014).
05/06/2013 Article – “Op-Ed: Raped and Betrayed”	Ferguson publishes an op-ed piece in which she criticizes Swarthmore’s administrators for their policies and procedures, for their mishandling of sexual misconduct reports, and for failing to provide support for victims of	<i>Daily Gazette</i> . http://daily.swarthmore.edu/2013/05/06/op-ed-raped-and-betrayed/ (accessed

	sexual assault. Ferguson states, “Why is the administration the one group that doesn’t vocally want justice for survivors when they are the group responsible for the rights of survivors?”	January 17, 2014).
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H. Swarthmore’s “Re-Opened” Investigation.

100. On May 9, 2013, Joanna Gallagher (Swarthmore’s Associate Director of Public Safety) called John and asked him questions concerning Jane’s previous allegations. These same questions had been posed by Ms. LaMar during John’s two interviews in December 2012, and John’s responses and accounts remained consistent and unequivocal – all sexual interactions between the two were consensual and Jane willingly participated in or outright initiated the contact.

101. On the morning of May 14, 2013, Ms. LaMar emailed John, stating that “[i]t is important that we speak this morning.” (Email from Sharmaine LaMar to John, dated May 14, 2013). During a subsequent call that same day, Ms. LaMar informed John that he would be charged with violating Swarthmore’s sexual misconduct policy.

102. Less than an hour later, John received an email from Associate Dean for Student Life Myrt Westphal (sometimes referred to as “the Associate Dean”) informing him that he was charged with sexual assault, illegal entry, and harassment through communications.

103. In this correspondence, the Associate Dean told John that a CJC hearing for the matter was scheduled for May 21, 2013 – just seven days later and when classes were not in session.

104. Shocked by the news, John scrambled to prepare for the hearing and make travel arrangements to return to Swarthmore from his home in North Carolina.

105. The Associate Dean also informed John that Jane would participate in the hearing remotely via Skype, despite the College's policies and procedures normally requiring that "all evidence presented at a hearing by either party shall be introduced in the presence of the other party." (*See* Exhibit A, Section II(E) at 39).

106. On May 17, 2013, the Associate Dean rescheduled the hearing for May 30, 2013, citing "too many concerns to be able to go forward with the hearing in this fashion." (Email from Myrt Westphal to John, dated May 17, 2013).

107. On May 27, 2013, the College interviewed John and Jane separately. The investigation concluded on that date.

108. On May 28, 2013, two days before the CJC hearing, John received a "Formal Charge Letter," charging John with sexual assault and illegal entry, with the further notation that, at "2 pm May 28, 2013," the second charge had been "changed" from harassment through communications to sexual harassment.

109. On May 27 and 28, 2013, just days before the hearing, Swarthmore allowed John to review the investigation report and, purportedly, all of the evidence to be presented in the CJC hearing. (Email from Myrt Westphal to John, dated May 22, 2013).

110. Swarthmore mandated that John examine the investigation report and evidence in Ms. LaMar's office during business hours and he was prohibited from making electronic copies, showing the materials to anyone (including legal counsel), or taking the materials home for further review.

I. Jane Offers Differing, Conflicting Accounts Of The Encounters At Issue.

111. Unlike John's consistent descriptions of each of his encounters with Jane, Jane's accounts in the investigation report and in a series of statements submitted in the first and second investigations kept changing.

112. Jane's descriptions of what occurred during each interaction vary from account to account and her claims concerning John's alleged coercive conduct and her alleged level of "resistance" escalate dramatically from the initial to the "re-opened" investigation.

113. Concerning the initial kiss, in a November 29, 2012 interview conducted five days after she made the accusations, Jane stated that John attempted to kiss her during their conversation and that she rebuffed his attempt.

114. However, in a statement she submitted on May 14, 2013, after the investigation was "re-opened" and 752 days after the alleged misconduct, Jane contended that John's advances were repeated, forceful and involved unsolicited groping.

115. Similar inconsistencies and a pattern of escalation are present in Jane's accounts of the second encounter. In her November 29, 2012 interview, Jane maintained that John "asked" to perform oral sex on her. Jane stated that she denied his request and, "tried" to perform oral sex on him "instead."

116. Yet, in her May 14, 2013 statement, Jane alleged that John "attempted," rather than "asked" to perform oral sex on her, and subsequently "forced" her to perform oral sex on him.

117. Concerning the sexual intercourse that occurred on May 1, 2011, in her accounts offered during the first investigation, Jane admitted to going to John's dorm room and described herself as the "instigator" of the sexual activities. Jane changed this story in her May 14, 2013

statement where she alleged that she was fearful of John and had sex with him to prevent him from hurting her.

118. In addition to Jane's inconsistent accounts, three student witness statements supplied to the College on May 15 and 16, 2013 – more than two years after the incident – provide only the witnesses' after-the-fact accounts of their interactions with Jane.

J. Swarthmore Failed To Follow Its Own Procedural Safeguards During The Investigation And At The CJC Hearing.

119. In the course of its "re-opened" investigation, Swarthmore committed numerous material violations of its own policies and procedures governing the investigation of allegations of sexual misconduct.

120. First, the "re-opened" investigation blatantly violated the requirement that the College complete investigations of sexual misconduct allegations in 60 days. ("In no case will an investigation last longer than 60 days.") (*See* Exhibit A at 22). The investigation of Jane's accusation against John extended to nearly 180 days (from the opening of the first investigation on November 28, 2012 to the conclusion of the re-opened investigation on May 27, 2013). This extraordinary procedural irregularity caused John severe prejudice, compounding the prejudice that had already been caused by the 19-month lapse between the incident in question and Jane's first complaint. The passage of so much time resulted in fragmented memories, inability to track down potential witnesses with respect to key allegations, such as Jane's level of intoxication in the second encounter, and loss of text messages, all of which impaired John's ability to mount a full defense.

121. Second, John was not afforded the opportunity to respond in writing to the investigation report for the Panel's review, despite Swarthmore's sexual misconduct policy that

“[t]he accused and accuser will have the opportunity to file a written response to the investigator’s report, which will also be included in the evidence.” (Exhibit A at 22).

122. The Student Handbook explicitly grants the accused the right “to be made aware of the options available.” (*Id.* Section II(C)(2) at 37). Swarthmore violated this provision because it failed to inform John of the option available to him to submit and introduce into evidence his written response. As a result, the CJC Panel had before them the investigator’s report, which included Jane’s written complaints and John’s statement prepared in December 2012, but no statement from John responding to the entirety of the report or to Jane’s complaints.

123. Third, Jane prepared three written complaint statements in emails sent to the Title IX Coordinator dated November 24, 2012, December 6, 2012, and May 14, 2013. However, John was never presented with the written statements until he saw them for the first time upon his review of the evidence file 48 hours before the hearing. Having withheld the written complaint statements from John until 48 hours before the hearing, the College effectively deprived him of his right to “complete a similar statement responding to the charges.” (*See* Exhibit A, Section II(B)(2) at 36) (“The accused students(s) shall be presented with the written complaint statement, and in turn may complete a similar statement responding to the charges”).

124. Fourth, Swarthmore failed to provide John access to all evidence prior to the hearing, despite the Student Handbook’s unequivocal statement that “[b]oth the accused and the complainant(s) ***shall be shown a copy of the materials that will be present in the hearing*** in sufficient time before the hearing (normally 48 hours in advance) to prepare their cases.” (*Id.* Section II(C)(4) at 37) (Emphasis added).

125. Contrary to this procedure, John was not provided *any* pre-hearing access to a written statement in an email prepared by Jane, a part of which was read into evidence at the

hearing in an attempt to rebut a point made by John based on the materials made available to him. Because the statement was not included in the evidence file that John had been permitted to review in advance of the hearing, John had no ability to prepare to respond to it at the hearing.

126. Fifth, Swarthmore failed to provide John with timely notice of the actual charges brought against him. Swarthmore initially provided John with the charges on May 14, 2012. On May 22, 2013, Associate Dean Westphal assured John the charges had not been changed. Six days later, on May 28, 2013 at 2 p.m., less than two days before the hearing, John received the Final Charge Letter that replaced the previously-noticed “harassment through communications” charge with the charge of “sexual harassment.”

127. Thus, instead of providing John with the customary three days notice of the actual charges at issue, Swarthmore allowed him less than two days to prepare a new defense to the more serious charge of sexual harassment. There is no provision in the Student Handbook’s sexual misconduct policies and procedures allowing the College to change charges in the interim between notice of the “relevant charges” and presentation of the Formal Charge Letter. Changing the charges that close to the hearing, and after the time allowed for John to review the evidence file, violates Swarthmore’s published rules regarding rights of notice.

128. This abrupt amendment to John’s charges came shortly after one of the complainants in the federal complaints publically criticized the College for classifying conduct of her alleged assailant that she believed constituted “sexual harassment” as “harassment through communications.”

129. Sixth, John was not given the opportunity to confer with the Observer that had been assigned to the case prior to the hearing. In written communications from the Associate Dean dated May 22, May 24, and May 29, 2013, John was told that the Observer was the

College's Vice President for Facilities and Services. However, for the entire duration of the re-opened proceedings, John was "advised" by Associate Dean Westphal, the same administrator who made the decision to press charges and selected the charges against him. Thus, instead of providing John with counsel from an impartial Observer, John had to turn to the very individual responsible for charging him.

130. Furthermore, prior to the hearing, *Associate Dean Westphal assured John that no student had been expelled for sexual misconduct in her 25 years at Swarthmore*, thereby indicating that this most severe of all possible sanctions was off the table. To his detriment, John trusted Associate Dean Westphal, relied on her representation and, as a result, did not devote the level of time, energy, or resources he would have expended to prepare for the hearing had he had any reason to believe his academic and professional careers were at stake.

131. Seventh, Swarthmore impermissibly scheduled John's hearing on May 30, 2013, almost one month after classes had ended for the semester and approximately two weeks after the course examination period closed. (See Exhibit A, Section II(C)(3) at 37) ("Hearings are scheduled when classes are in session and not during college breaks."). Although the Student Handbook affords the Associate Dean discretion to schedule the hearing "when classes resume" or for "more immediate adjudication," in John's case, the College elected to re-open the investigation – without explanation – four days after classes had ended. The College then rushed into a hearing within three weeks to adjudicate an alleged incident that had occurred two years earlier. The decision to hold an immediate adjudication cannot be justified in these circumstances. Doing so was prejudicial to John, who was forced to rush back to an empty campus, without time or means to locate potential witnesses who might support his testimony that Jane did not appear to be intoxicated as she had alleged.

132. Swarthmore continued its pattern of violating John's rights under the College's policies and procedures during the CJC hearing in at least five material respects.

133. First, as noted the Student Handbook requires that "a copy of the materials that will be present in the hearing" must be shown to the accused at least 48 hours in advance of the hearing. Contrary to this policy, the Panel permitted Jane to testify at the hearing about a written statement she had prepared that had not been included in the materials.

134. Second, this improperly-admitted evidence was offered by Jane to rebut John's account of the encounters and Ms. LaMar, the Title IX Coordinator who headed the investigation, was permitted to read a portion of Jane's statement into evidence.

135. Ms. LaMar's presence at the hearing, much less the testimony she offered as an undisclosed witness, violated Swarthmore's policies and procedures with respect to who may attend CJC hearings and who may testify. Ms. LaMar was not a member of Swarthmore's Judiciary Committee, did not serve as the hearing's Convener or Observer, was not identified as a witness to be called, and did not serve as a supporter for either party. Thus, her presence alone was in violation of Swarthmore's policies and procedures.

136. Furthermore, as noted, the Student Handbook requires the accused student and complainant to provide a list of witnesses they plan to call at the hearing to the Observer 48 hours before the hearing. Jane identified one witness to be called at the hearing (not Ms. LaMar), and on May 29, 2013, the Associate Dean informed John in writing that only that witness would appear at the hearing. Thus, Ms. LaMar testified as a "surprise" witness.

137. Compounding these procedural violations, Swarthmore violated its obligation to be fair and even-handed, and to provide John with accurate and truthful information about the CJC judicial process. John had requested that Ms. LaMar serve as his supporter during the

hearing. He was told, however, that: (1) such an arrangement is improper; and (2) Ms. LaMar would not be present during the proceedings. Both representations were false as Ms. LaMar was present at the hearing *and* offered support for *Jane* through her testimony.

138. Third, Swarthmore violated its policies and procedures by failing to exclude from evidence references to John's alleged sexual history. Instead of enforcing this fundamental procedural safeguard, the CJC Panel permitted Jane to testify concerning statements John allegedly made to her about his previous sexual encounters.

139. Fourth, despite the Student Handbook's policy that the "accuser and accused are present" during the CJC hearing, the Panel, on its own, without a request from either Jane or John, suggested that Jane might wish to leave the hearing in the middle of John's testimony.

140. Specifically, a member of the Panel interrupted John's testimony concerning the encounters at issue and expressed concern for Jane. Thereafter, the Panel recessed the proceedings in order to determine whether to excuse Jane during John's testimony.

141. When John was asked to come back in and continue his testimony, Jane was absent from the hearing.

142. The clear inference to be drawn from the Panel's extraordinary conduct in suggesting and allowing that John's accuser be removed from the proceedings during his testimony is that the Panel wanted to spare Jane from hearing John's side of the story, and had predetermined that Jane was the victim and John was the victimizer.

143. In addition to these material procedural violations, Swarthmore's policies fail to afford students accused of serious sexual misconduct with fundamental due process rights including, the right to legal counsel at the hearing, the right to share the investigation file and/or evidence to be used during the hearing with legal counsel, and the right to confront the accuser at

the hearing through cross-examination. Concerning the latter, Swarthmore took this policy a step further in John's case and placed a physical divider between him and Jane during the proceedings. Thus, John was unable to even observe Jane during her testimony.

144. Furthermore, by applying a "preponderance of the evidence standard," even in cases involving possible severe penalties, Swarthmore effectively requires the accused to bear the burden of proving his innocence, rather than placing the burden on the accuser to prove his guilt.

145. Given these material failures to follow fundamental procedural safeguards, it is not surprising that the CJC Panel found that John had "more likely than not" violated the College's sexual misconduct policy with respect to all three charges. ("Letter of Findings" from Swarthmore to John, dated June 3, 2013).

146. In its Letter of Findings, the CJC notified John that his punishment was immediate expulsion from Swarthmore.

K. President Chopp Denies John's Clear Right To Appeal

147. On June 7, 2013, John submitted a timely request for appeal to President Chopp. Pursuant to Swarthmore's Student Handbook, he cited as grounds for a re-hearing numerous procedural errors identified above.

148. He also asked President Chopp to consider the unusual facts of this case, including that Jane did not dispute that she initiated consensual sexual intercourse shortly following the alleged encounter at issue, and that Jane did not request the investigation until nineteen months later while spending the year in Scotland with her boyfriend (who was by then her fiancé), whose trust she regretted having breached through her consensual encounter with John two years earlier.

149. On June 10, 2013, John received an email from the Executive Coordinator of the Office of the President, stating that the College would make a copy of the appeal available to Jane and would give her an opportunity to respond. The Student Handbook does not contain a provision allowing the non-appealing party to review, much less submit a response to, a request for appeal. (*See* Exhibit A, Section II(G)(1) at 40-41).

150. John submitted a reply to Jane's response on June 23, 2013.

151. On July 12, 2013, the DOE's Office of Civil Rights ("OCR") opened an official investigation into Swarthmore concerning the allegations set forth in the Title IX and Clery Act complaints filed in May 2013. (*See* Kingkade, Tyler. "Swarthmore College Under Federal Investigation For Handling Of Sexual Assaults." July 14, 2013. *Huffington Post*.

<http://www.huffingtonpost.com/2013/07/14/swarthmore-sexual-assault-investigation3592893.html?ir=College>).

152. On that same date, the OCR informed Swarthmore of the investigation. (*Id.*)

153. On July 16, 2013, four days after learning of the federal investigation, President Chopp denied John's request for appeal and upheld the findings and expulsion sanction issued by the CJC Panel.

154. Two days later, in an email sent to Swarthmore's students, faculty and staff, President Chopp acknowledged that the College's sexual misconduct policies are required to protect the rights of the accused and committed to implementing measures to comply with this federal mandate.

155. President Chopp stated:

We fully appreciate that respondents to complaints also require assistance, particularly throughout the grievance process. We will hire a hearings advisor for this important function, noting that the U.S. Department of Education clearly mandates a fair and equitable process for both complainants and respondents.

(“President Chopp Releases Sexual Assault Consultant’s Interim Report, Announces Staffing Changes.” July 18, 2013. *Daily Gazette: The Slog*. <http://daily.swarthmore.edu/slog/2013/07/president-chopp-releases-sexual-assault-consultants-interim-report-announces-staffing-changes/>) (Emphasis added).

156. To John’s detriment, during his proceedings, he was not provided with a hearings advisor to supply the “require[d] assistance” necessary to ensure the fair and equitable process mandated by the Department of Education.

L. John’s Academic Career, Professional Future, And Reputation Have Been And Will Continue To Be Severely Damaged By Swarthmore’s Illegal And Tortious Conduct.

157. Despite John’s sterling academic record, significant contributions to the Swarthmore community through his extracurricular activities, and Jane’s belated and varying accounts of his alleged misconduct, Swarthmore imposed the most severe sanction on him, after a sham process that denied him basic due process rights and violated Swarthmore’s own policies and procedures governing sexual misconduct proceedings.

158. Upon information and belief, John’s case was the first sexual misconduct matter before the CJC Panel following the complaints filed with the DOE and negative news coverage concerning the College’s past record on sexual misconduct allegations, and John’s verdict was rendered and appeal denied based solely on his gender.

159. He was a male accused of sexual misconduct at the wrong time and in the wrong place.

160. John was the whipping boy that Swarthmore needed to demonstrate its new “zero tolerance” standard to deal with allegations of sexual misconduct.

161. The investigation against John was “re-opened” and he was expelled based solely on his gender, as Swarthmore rendered its liability decision and imposed the most severe sanction in the absence of any corroborating evidence and in flagrant disregard of the College’s own policies and procedures.

162. As a result of Swarthmore’s actions, John’s academic and professional prospects have been shattered, and his economic future has been severely compromised.

163. In his attempt to continue his academic pursuits, John made inquiries to some 300 colleges and universities about their transfer and admission policies. The vast majority of these institutions informed John that their policies explicitly forbid the acceptance of students who have been expelled from a college or university.

164. Other institutions with less strict policies have informed John that, if his record indicates a finding of sexual misconduct, he will not be admitted, regardless of his grades, test scores, community activities, or the circumstances surrounding his case.

165. John was limited to nineteen institutions without bright-line rules concerning disciplinary records and sexual misconduct findings where he had any chance of being accepted.

166. John disclosed Swarthmore’s findings concerning his interactions with Jane to eighteen of these institutions, as required by their respective applications.

167. Despite his first-rate academic record and otherwise unblemished disciplinary history, John was rejected from all but one of the colleges and universities aware of the CJC

hearing, the Panel's findings, and the severe sanction imposed. Moreover, John is required to enroll in this university as an incoming junior, which forces him to take, and pay tuition for, an additional year of undergraduate education.

COUNT I

(Violation of Title IX of the Education Amendments of 1972, 20 U.S.C. §1681, et seq.)

168. John Doe incorporates by reference each of the paragraphs above as if fully set forth herein.

169. Title IX of the Education Act Amendment of 1972, 20 U.S.C. § 1981, *et seq.* ("Title IX"), provides in relevant part that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

170. Title IX is enforceable through an implied right of action affording an individual discriminated against due to his or her gender pecuniary damages and equitable relief.

171. Swarthmore receives federal funding in various forms, including, but not limited to, grants and federal student loans provided to Swarthmore by its students or given to Swarthmore by the federal government directly.

172. Swarthmore has discriminated against John, on the basis of his sex, through discriminatory, gender-biased implementation of Swarthmore's policies and procedures in the wake of scathing media reports and federal complaints against the College.

173. Swarthmore initiated and conducted the "re-opened" investigation and subsequent hearing in a manner that was biased against John due to his gender. Swarthmore was under fire and subject to federal investigation for its mishandling of sexual misconduct complaints and John, on information and belief, as the first male student facing such charges before the

College's judicial system in the aftermath of this criticism, was found to have committed these offenses absent any credible evidence of wrongdoing.

174. At the hearing, the CJC Panel impermissibly allowed Jane to admit a previously undisclosed statement into evidence; let it be read by the College's investigator, even though she had not been disclosed as a witness and John had been told by the College that she would not attend the hearing; and unilaterally suggested that and permitted Jane to leave the hearing during John's testimony. All of these actions violate the Student Handbook policies and procedures, and demonstrate the Panel's discriminatory bias against the accused based on his gender. Further demonstrating its discriminatory bias, the Panel unjustifiably discounted or ignored the inconsistencies in Jane's accounts of what had occurred, the lack of physical, medical, or police corroborating evidence, the uncontested fact that Jane initiated consensual sexual intercourse shortly following the alleged incident at issue, and that she did not make any accusation until more than a year-and-a-half later.

175. Even assuming *arguendo* that Swarthmore had complied with its policies and procedures, such rules afford varying rights to women and men as in virtually all cases of alleged sexual misconduct at Swarthmore, the accused student is a male and the accusing student is a female.

176. On information and belief, a female student at Swarthmore has never been disciplined, much less expelled, for alleged sexual misconduct.

177. Swarthmore's policies and procedures have deprived John, on the basis of his sex, of basic due process and equal protection rights as they do not allow for the presence of legal counsel to aid in the defense of sexual misconduct charges and deny a student accused of sexual misconduct the right to confront and/or cross-examine his accuser.

178. Due to his gender, Swarthmore imposed sanctions on John that were excessively severe, especially in light of Jane's inconsistent testimony, the lack of physical, medical, or police corroborating evidence, and the long passage of time between the alleged sexual misconduct and Jane's accusation.

179. John, based solely on his gender, was discriminated against by Swarthmore in violation of Title IX and, as a result, John has been seriously and irreparably damaged.

180. As a direct and proximate consequence of Swarthmore's Title IX violations, John has sustained significant damages including, but not limited to, having an academic and/or disciplinary record(s) that improperly includes a notation indicating that he was found to have committed sexual misconduct, harassment and/or other related offenses.

181. This black mark on John's record inhibits or destroys his ability to enroll in a similarly ranked and esteemed college or university and stigmatizes John as he now has a record that notes findings of guilt for conduct he did not commit.

182. John has also suffered monetary damages, emotional distress, loss of educational opportunities, and other direct and consequential damages.

183. As a direct and proximate consequence of Swarthmore's Title IX violations, John has lost any and all moneys he has paid to obtain a Swarthmore degree (including but not limited to, tuition, living expenses, books, transportation costs) since he enrolled in 2010, as he was forced to leave the College just before his senior year without a certificate of graduation.

184. John is entitled to recover damages for Swarthmore's Title IX violations.

WHEREFORE, Plaintiff John Doe, respectfully requests that this Honorable Court enter judgment in his favor against Swarthmore and provide the following relief:

(a) Mandate that Swarthmore correct John's academic and/or disciplinary record to remove any findings issued by the College with respect to the charges levied against him by Swarthmore and/or Jane;

(b) Mandate that Swarthmore verify this correction by providing John with a notarized letter confirming that any findings with respect to these charges have been expunged from John's academic and/or disciplinary record;

(c) Mandate that Swarthmore immediately allow John to reenroll in the College to complete his senior year of education;

(d) Award John compensatory damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), in addition to prejudgment interest, attorneys' fees, expenses and costs; and

(e) Award John any other and further relief that the Court deems just and proper.

COUNT II
(Breach of Contract)

185. John Doe incorporates each of the above paragraphs as if fully set forth herein.

186. At all times relevant hereto, a contractual relationship existed between Swarthmore and John through, *inter alia*, Swarthmore's Student Handbook and the College Bulletin.

187. Swarthmore was required to act in accordance with the Student Handbook and College Bulletin in addressing complaints of sexual misconduct, conducting investigations of such complaints, adjudicating sexual misconduct charges, and deciding requests for appeal.

188. For all the reasons set forth above, Swarthmore has materially breached its contracts with John by failing to comply with policies and procedures governing sexual misconduct proceedings set forth in the Student Handbook and College Bulletin.

189. As a direct, proximate and foreseeable consequence of Swarthmore's numerous material breaches, John has sustained significant damages including, but not limited to, having an academic and/or disciplinary record(s) that improperly includes a notation indicating that he was found to have committed sexual misconduct, harassment and/or other related offenses.

190. This black mark on John's record inhibits or destroys his ability to enroll in a similarly ranked and esteemed college or university and stigmatizes John as he maintains a record that notes findings of guilt for conduct he did not commit. John has also suffered monetary damages, loss of education opportunities, and other direct and consequential damages.

191. John is entitled to recover damages for Swarthmore's breach of its contractual obligations and duties.

WHEREFORE, Plaintiff John Doe, respectfully requests that this Honorable Court enter judgment in his favor against Swarthmore and provide the following relief:

(a) Mandate that Swarthmore correct John's academic and/or disciplinary record to remove any findings issued by the College with respect to the charges levied against him by Swarthmore and/or Jane;

(b) Mandate that Swarthmore verify this correction by providing John with a notarized letter confirming that any findings with respect to these charges have been expunged from John's academic and/or disciplinary record;

(c) Mandate that Swarthmore immediately allow John to reenroll in the College to complete his senior year of education;

(d) Award John compensatory damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), in addition to prejudgment interest, attorneys' fees, expenses and costs; and

(e) Award John any other and further relief that the Court deems just and proper.

COUNT III
(Promissory Estoppel)

192. John Doe incorporates each of the above paragraphs as if fully set forth herein.

193. John believes that Swarthmore's Student Handbook and College Bulletin are binding contracts and that Swarthmore has materially breached multiple provisions therein relating to the sexual misconduct proceedings in this case.

194. However, in the event the Court were to find that no such contracts exist, Swarthmore, through but not limited to its regulations, standards, procedures and policies, made representations to John, independent of any express contractual promises, that Swarthmore expected or should have expected would induce John to apply to and continue to enroll at the College.

195. Swarthmore expected or should have expected John to accept its offer of admission and incur the tuition, fees and costs necessary for enrollment based on the College's regulations, standards, procedures and policies.

196. John relied on Swarthmore's expressed and implied promises that he would not be discriminated against by the College and would be afforded the aforementioned rights set forth in the Student Handbook and College Bulletin.

197. John justifiably relied on Swarthmore's express and implied promises to his detriment, as Swarthmore failed to adhere to its regulations, standards, procedures and policies and did, in fact, discriminate against him by failing to provide him with the rights set forth in the Student Handbook and College Bulletin.

198. As a direct, proximate and readily foreseeable consequence of the above-identified conduct, John has sustained significant damages including, but not limited to, possessing an academic and/or disciplinary record(s) that improperly includes a notation

indicating that he was found to have committed sexual misconduct, harassment and/or other related offenses.

199. This black mark on John's record inhibits or destroys his ability to enroll in a similarly ranked and esteemed college or university and stigmatizes John as he maintains a record that notes findings of guilt for conduct he did not commit. John has also suffered monetary damages, emotional distress, loss of education opportunities, and other direct and consequential damages.

WHEREFORE, Plaintiff John Doe, respectfully requests that this Honorable Court enter judgment in his favor against Swarthmore and provide the following relief:

(a) Mandate that Swarthmore correct John's academic and/or disciplinary record to remove any findings issued by the College with respect to the charges levied against him by Swarthmore and/or Jane;

(b) Mandate that Swarthmore verify this correction by providing John with a notarized letter confirming that any findings with respect to these charges have been expunged from John's academic and/or disciplinary record;

(c) Mandate that Swarthmore immediately allow John to reenroll in the College to complete his senior year of education;

(d) Award John damages in an amount to be determined at trial, including, but not limited to economic damages, damages to physical well-being, emotional damages, damages to reputation, loss of career prospects as well as prejudgment interest, attorneys' fees, expenses, costs; and

(e) Award John any other and further relief that the Court deems just and proper.

COUNT IV
(Negligence)

200. John Doe incorporates each of the above paragraphs as if fully set forth herein.

201. John believes that Swarthmore's Student Handbook and College Bulletin are binding contracts and that Swarthmore has materially breached multiple provisions therein relating to the sexual misconduct proceedings in this case.

202. However, in the event the Court were to find that no such contracts exist, Swarthmore owed duties of care to John independent of any contractual duties including, but not limited to:

- a) To ensure that its policies and procedures concerning sexual misconduct are fair and reasonable;
- b) To ensure that its policies and procedures concerning sexual misconduct are compliant with applicable federal/state law, namely, but not limited to, Title IX;
- c) To adequately train its administration, staff, employees and representatives of such policies and procedures concerning sexual misconduct; and
- d) To ensure that its administration, staff, employees and representatives adhere to such policies and procedures.

203. Based on the aforementioned facts and circumstances, Swarthmore has breached its duties of care owed to John.

204. As a direct, proximate and readily foreseeable consequence of Swarthmore's aforementioned conduct, John has sustained significant damages including, but not limited to, possessing an academic and/or disciplinary record(s) that improperly includes a notation indicating that he was found to have committed sexual misconduct, harassment and/or other related offense.

205. This black mark on John's record inhibits or destroys his ability to enroll in a similarly ranked and esteemed college or university and stigmatizes John as he maintains a record which notes findings of guilt for conduct he did not commit. John has also suffered monetary damages, emotional distress, loss of education opportunities, and other direct and consequential damages.

WHEREFORE, Plaintiff John Doe, respectfully requests that this Honorable Court enter judgment in his favor against Swarthmore and provide the following relief:

(a) Mandate that Swarthmore correct John's academic and/or disciplinary record to remove any findings issued by the College with respect to the charges levied against him by Swarthmore and/or Jane;

(b) Mandate that Swarthmore verify this correction by providing John with a notarized letter confirming that any findings with respect to these charges have been expunged from John's academic and/or disciplinary record;

(c) Mandate that Swarthmore immediately allow John to reenroll in the College to complete his senior year of education;

(d) Award John damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), in addition to prejudgment interest, attorneys' fees, expenses and costs; and

(e) Award John any other and further relief that the Court deems just and proper.

COUNT V
(Equitable Relief)

206. John Doe incorporates each of the above paragraphs as if fully set forth herein.

207. Based on the aforementioned facts and circumstances, John is entitled to equitable relief due to Swarthmore's numerous violations of federal and state law.

208. As a result of these violations, John's education, professional career, and reputation have been severely damaged. Without appropriate and timely redress from this Court, the inequitable findings and sanction imposed by the CJC Panel and upheld by the Office of the President will be irreversible and follow John throughout his life.

WHEREFORE, Plaintiff John Doe respectfully requests that this Honorable Court issue an order mandating that:

- (a) The outcome and findings made by Swarthmore at John's CJC hearing be reversed;
- (b) Swarthmore correct John's academic and/or disciplinary record to remove any findings issued by the College with respect to the charges levied against him by Swarthmore and/or Jane;
- (c) Swarthmore verify this correction by providing John with a notarized letter confirming that any findings with respect to these charges have been expunged from John's academic and/or disciplinary record;
- (d) Swarthmore immediately allow John to reenroll in the College to complete his senior year of education.
- (e) John be awarded damages in an amount to be determined at trial, including, but not limited to economic damages, damages to physical well-being, emotional damages, damages to reputation, loss of career prospects as well as prejudgment interest, attorneys' fees, expenses, and costs; and
- (f) John be awarded any other and further relief that the Court deems just and proper.

COUNT VI
(Negligent Infliction of Emotional Distress)

209. John Doe incorporates each of the above paragraphs as if fully set forth herein.

210. Based on the aforementioned facts and circumstances, Swarthmore acted in a negligent manner and, as a direct result of such conduct, John suffered and will continue to suffer *inter alia*, mental anguish, severe emotional distress, physical harm, financial loss, and humiliation, all of which may be affect John forever.

WHEREFORE, Plaintiff John Doe, respectfully requests that this Honorable Court enter judgment in his favor against Swarthmore for compensation in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) in addition to prejudgment interest, attorneys' fees, expenses, costs and any other and further relief that the Court deems just and proper.

Respectfully submitted,

Dated: January 23, 2014

A handwritten signature in blue ink, appearing to read "Patricia M. Hamill", is written over a horizontal line.

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EXHIBIT “A”

SWARTHMORE COLLEGE
OFFICIAL STUDENT HANDBOOK
2012-2013

ACADEMIC POLICIES AND REGULATIONS

Academic Regulations

The academic information of the College can be found in a variety of published resources. The *Swarthmore College Bulletin* (~~the~~ red book”) is the authoritative source for academic information, course descriptions, degree requirements, admissions procedures, and guidelines for the College community. Courses actively available each semester are listed on the Schedule of Courses and Seminars, found in the Registrar’s Office. For more information see the Registrar in Parrish E124 or see the College website at www.swarthmore.edu/Admin/registrar. Individual departments have websites with course listings and department regulations.

Committee on Academic Requirements

The Committee on Academic Requirements (CAR) is the standing committee of the faculty charged with regular review of students’ academic programs and the administration of faculty regulations concerning academic standards and requirements. The committee is also empowered to recommend to the faculty waivers of certain requirements (i.e. the “20 course rule,” the senior year residency requirement, etc.). Requests for waivers are carefully evaluated by the Committee and forwarded to the faculty only when a general educational advantage is perceived.

With the Dean of Students as chair, the Committee regularly meets at the end of each semester to review records of students who are not making satisfactory progress or who are under advisement from previous CAR mandates. Student records may be reviewed at other times should information arise about academic difficulties that were not available at the time of the regular committee meetings.

The committee may take one of several actions including, but not limited to:

- 1) Warnings: Students meet with deans’ staff member as needed
- 2) Probation: Students may be placed on probation, continued on probation, or removed from probation. The student’s parents are informed and the student meets regularly with a Dean’s staff member.
- 3) Required to Withdraw: The student must stay away for a semester or longer and engage in meaningful activity: classes; work; volunteer activities. In order to return, the student must write a detailed letter to the Dean of Students requesting permission to return, explaining what happened, what was done while the student was away, and a plan for how the student will address these issues upon return. In some cases, the student will be required to bring back credits, pre-approved by departments, to catch up with the student’s class standing. Appeals may be made to the Dean at the time of notification of the change of status. Students will return on probation and the student’s parents are notified.

Leaves from the College

Leaves of Absence: Student leaves of absence are freely permitted. Some fines may occur if a late notice is given. A student planning a leave of absence should consult with a dean and complete the necessary form prior to the deadline published each semester (usually December 1 and April 1). The form asks the student to specify the date of expected return; the student need only notify the Dean of his/her return if the return date changes from that originally indicated on the completed form. Please note that some leaves may affect the student’s re-payment of loans.

Withdrawal: Withdrawal from the College may occur for academic, disciplinary, health, personal, or financial reasons, and may be voluntary or required by the College. Students withdrawing from the College before the end of the semester normally receive the grade notation “W” (withdrawal) on their permanent record for all in-progress courses.

Health-related withdrawal

In no case will a student’s mental or physical condition itself be a basis for a required

withdrawal. However, the student may be required by the College to withdraw when health problems of a physical or psychological nature result in behavior that substantially interferes with a student's academic performance or the educational endeavors of other students, or poses a significant threat to the student's safety or safety of others. The decision to require withdrawal for health-related reasons is made by the Evaluation Committee, chaired by the Associate Dean for Academic Affairs and comprised of another dean, usually the Class Dean. The Evaluation Committee will review the problematic behavior and may consult with the Director of Worth Health Center, the Director of Counseling and Psychological Services, or any other appropriate College official when making its decision. Decisions of the Evaluation Committee may be appealed to the Dean of Students.

Readmission Following Withdrawal

A student who has withdrawn from the College for any reason, voluntarily or involuntarily, may apply for readmission by writing to the Dean of Students. Normally the College will not accept applications for readmission until a full semester, in addition to the semester in which the student has withdrawn, has passed. For a complete description of the readmission process, please refer to the *Swarthmore College Bulletin*.

Short-term Health-related Absences: Students who are hospitalized for a period during the semester are subject to the readmission procedures before they may return to campus to resume their studies. In these situations, the Evaluation Committee may also counsel and advise a student about options for how best to approach the remaining academic work in the semester. In all cases, a student returning to campus from the hospital must report to the Worth Health Center and get clearance from the appropriate healthcare professional before returning to the dormitory to ensure the student's readiness to resume college life and so that follow-up care can be discussed.

Required Evaluations:

Mental Health: If a student is exhibiting behaviors that may pose a direct threat to student safety, the Dean may request a mental health evaluation to determine whether the student can safely remain on campus. The evaluation will be conducted by the Director of Counseling and Psychological Services, or someone designated by the Director who possesses competent medical expertise. The evaluation will involve an individualized assessment, based on current medical knowledge or the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices or procedures or the provision of auxiliary aids or services will mitigate the risk. A report of this evaluation is made to the Dean of Students who will determine, based on all the evidence, if it is safe for the student to be on campus. The student will also be permitted to review the evaluation and to provide permission for the Swarthmore evaluator(s) to be in communication with an outside practitioner to get a history and more complete picture of the student's treatment and mental state, and to provide any additional information the student deems pertinent. Decisions to remove students from campus will be based on a student's observed conduct, actions, and statement and not based merely on knowledge or believe that the student suffers from a mental health impairment.

After a student has been unable to complete a semester due to mental health issues, the student must go through the same mental health evaluation process as part of the re-entry process.

Physical Health: similar evaluations may be required on the basis of a student's physical health, conducted through the Health Center by the director or the director's designee.

Rights to Privacy of Information under FERPA (Administered by the Registrar's Office)

The Buckley Amendment, or the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, and related federal regulations, establish guidelines protecting the privacy of student records and give a college student the right (subject to certain exceptions) to review his/her **educational records**, and, within 45 days of formally requesting to do so, to challenge and/or seek to amend the contents if s/he believes the records are inaccurate, misleading, or otherwise in violation of the student's privacy rights. FERPA also gives students the right to

consent to the disclosure of personally identifiable information contained in the student's education records, except to the extent that the law authorizes disclosure without consent. FERPA provides students the right to file a complaint with the Department of Education concerning alleged failures by the College to comply with the Act. Written complaints should be directed to the Family Policy Compliance Office, U.S. Department of Education, 600 Independence Avenue, S.W., Washington D.C., 20202-4605.

The procedure to inspect and review records, or to request amendment of education records is the same: students should write and sign a letter clearly stating their request and submit the letter to the Dean of Students.

Grades are available online to students through a password-protected website. They are not routinely sent to parents or guardians, except that parents or guardians of students are normally informed of grades in cases of important changes of status, such as probation and requirement to withdraw. However, grades may be released when students request it. Swarthmore has traditionally been very open with students relative to the content of their records, but has followed a conservative policy regarding disclosure of personally-identifiable information to outside persons or organizations.

Education records may be **disclosed to school officials** without prior written consent of the student. School officials include persons employed by the College in administrative, supervisory, academic, or research, or support staff positions; persons serving on College governing bodies; or persons employed by or under contract to the College to perform special tasks, such as attorneys and auditors. A school official is determined to have legitimate educational interest if the information requested is necessary to perform tasks appropriate to his or her position or contract agreement, perform tasks related to the student's education, perform tasks related to the discipline of a student, or provide a service such as health care, counseling, institutional research, job placement, or financial aid.

The College will release information in education records, including **disciplinary actions** or unsatisfactory academic progress records (generally probations, suspensions, or expulsions), to educational institutions to which the student seeks or intends to enroll or is already enrolled, for purposes related to the student's enrollment or transfer including medical and law schools.

Except as stated above, **personal information**, other than ~~directory~~ "information" or matters of public record, is not normally released to anyone outside the College without a student's prior consent unless otherwise permitted or required by law.

There are two categories of **directory information** at Swarthmore:

1. Published student ~~directories~~ "include the following:
 - A directory for the College community of enrolled students listing home addresses;
 - The telephone directory, available as a download, contains a student's name, class year, campus address, and campus telephone extension. The names, addresses, phone numbers, and class years of off-campus students also appear in the telephone directory;
 - A list of all students participating in the housing lottery and is publicly posted;
 - Each Spring Semester, the year's expected degree candidates are posted on a list outside the Registrar's Office;
 - The commencement program listing the Bachelor of Arts candidates, the Bachelor of Science candidates, Honors by level, Phi Beta Kappa, Sigma Xi, Tau Beta Pi, fellowships and prizes, and Pennsylvania Teacher Certification.
2. Other ~~directory~~ (public) "information" includes the following: home address, email address, date and place of birth, photographs, major(s), minor(s), dates of enrollment at Swarthmore, date of graduation or anticipated graduation, degree and honors or awards received, and participation in extracurricular activities including sports, and other similar information. Weight and height of athletic teams are also considered matters of public record.

According to the law and Swarthmore College policy, any item of directory information may be released at any time unless the student has filed a written request that specific directory information not be released, although normally most directory information is not released outside the College community without the student's request. Students have the right to request that directory information be withheld from

disclosure, except as otherwise provided by law. Students who wish to have certain directory items withheld from any release should file their request with the Registrar's Office, where questions concerning the College policy or this notice should also be directed. Students may file this request at any time and the Registrar's Office will work to place this restriction on the student's record within 2 weeks time.

Parental Notification Policy

It is the College's policy to treat the student as the person primarily privileged to authorize release of personal information. This policy reflects our philosophy that an important goal of undergraduate education is to continue the student's development as an autonomous adult. The College encourages students to share information with their parents or legal guardians, but ultimately the decision of what information to share rests with the student. Hence, the vast majority of communications are directed to the student rather than to the parents/guardians. For example, grades are sent only to the student unless the student gives written authorization to the Registrar to send grades to a parent or guardian.

We recognize, however, that this commitment to fostering the development of the student must be balanced with the parents' interest in the well-being and progress of their student in the College, and we recognize that there are times in which parental involvement can be in everyone's best interests. Thus, while the general policy is to be protective of the student's privacy, there are specific instances enumerated below in which a parent or legal guardian will be notified. In such instances, we believe it is appropriate for the student to inform his or her parent or guardian directly, so whenever possible we will allow time for students themselves to do so. However, in critical situations where prompt notification is prudent, a member of the Dean's staff will contact a parent or guardian as soon as possible.

1. Change of status imposed by the College

A change in the status of a student at the College may be imposed as a result of disciplinary action or unsatisfactory academic progress. If a student is placed on probation, suspended, or expelled, parents are notified. It should be noted that less severe instances of disciplinary or academic action may result in warnings to the student, of which parents are not formally notified.

2. Transport to a hospital in critical situations

Law prohibits health care professionals from disclosing medical information to the parent or guardian of a student without the student's explicit consent. However, when a student needs to be transported to the hospital in a critical situation, the parent or guardian of the student will be notified. Following the general policy, when the situation permits we will wait until the student herself or himself has the opportunity to notify the parent or guardian or until the student gives explicit consent for a third party to do so.

3. Arrest

The parent or guardian of the student will be notified if the student is placed under arrest while on College property and detained by law enforcement officials. Note that the College does not post bail for arrested students. If a student receives a citation for a summary offense for which they are not detained, e.g., underage drinking or disorderly conduct, the College generally will not notify the parent or guardian, but the police might choose to do so themselves. In addition, if a student is arrested away from the campus the College generally will not become involved and so will not inform the parent or guardian even if the incident comes to our attention.

4. Unexplained absence from campus

If it comes to the attention of College officials that a student is inexplicably absent from campus for a prolonged period, College officials may contact a parent or guardian in order to ascertain the whereabouts of the student. However, normally, College officials will first try to contact the student's confidential contact of record to locate the student. Students are responsible for identifying their confidential contact in their online student record. The College cannot be responsible for a student's failure to be in touch with their parents.

Note: The College reserves the right to notify a parent or guardian of a student for reasons other than those listed above, based on our judgment of what is in the best interests of the student and of the College. Individual deans may contact parents when

their student is failing to make satisfactory progress or when alcohol or other illegal substances are involved.

ACADEMIC SUPPORT REGULATIONS

Personal Academic Advisor (www.swarthmore.edu/academicadvising.xml)

Each new student is assigned to a faculty member, a member of the dean's staff, or other professional staff who acts as academic advisor until this responsibility falls to the chair of the student's major department at the end of the sophomore year. Initial assignments are made by the Associate Dean for Academic Affairs on the basis of major interests and abilities indicated by entering students. **Changes in advisors** will be freely granted (subject only to equity in number of advisees assigned to an individual faculty member) on application to the Associate Dean. Reassignments may also be made due to faculty leaves or shifts in duties.

The formal parameters of the relation between advisor and advisee include: 1) the advisor typically approves the courses for which the student registers; 2) the advisor must approve drops or adds to the course load; 3) the advisor will receive copies of all official correspondence concerning the student's academic standing in order to better advise the student on academic and personal decisions; 4) the advisor will guide the student in meeting academic requirements and choosing classes. When the advisor is not available, the student may contact the appropriate class dean or the chair of the major department.

Academic Support (www.swarthmore.edu/academicadvising.xml)

Supports such as clinics, tutors, and Student Academic Mentors (SAMs) are provided free of charge, within the bounds of reasonable use and when a relevant resource exists. Deans, professors, and/or the Coordinator of Student Disability Services and Learning Resources can all help students access these resources.

Student Disability Services (www.swarthmore.edu/x7687.xml)

Students with learning, medical, physical, or psychological disabilities may consult with Leslie Hempling, Coordinator of Student Disability Services and Learning Resources (located in Parrish Hall), 610-690-5014. She works with students so that they know what documentation is required for the disability and to help students access the agreed-upon, prescribed, reasonable accommodations. Students may read more detailed information on the website listed above and may also consult with the Equal Opportunity Officer, Sharmaine LaMar, if disputes arise from this process.

COLLEGE SERVICES: POLICIES AND REGULATIONS

Dining Services (www.swarthmore.edu/dining.xml)

Linda McDougall, Director of Dining Services, oversees the main dining facility in Sharples Dining Hall, the Mary Lyon's Breakfast Room, Essie Mae's Snack Bar (located in Tarble), Kohlberg Coffee Bar, and the Science Center Coffee Bar.

Open Hours are found at www.swarthmore.edu/dining-services/hours.xml.

All students in college housing must be on the meal plan. Students with special medical (short- and long-term), religious, or cultural needs must consult with the director of Dining Services to arrange for these special needs.

The Necessity of Identification Cards

Students eating in Sharples Dining Hall must present their College picture identification card for every meal. Students who do not have their cards will be permitted to sign in three times per semester. Once a student has used the three signed-in opportunities, the student will be required to pay cash until the new ID card is obtained. Absolutely no meal credit is given at Essie Mae's and points may not be used in any facility without a College picture ID card. These policies are in effect to protect each student's personal meal plan account.

Guests are always welcomed in Sharples Dining Hall. Guests may purchase meals at the door. Declining balance cards may be purchased at the Sharples office, near the main entrance door.

House menus are found on the website (www.swarthmore.edu/dining-services.xml) and on the Dash.

Group Meals

Groups of at least 25 students may substitute a cookout or special meal for regular meals at Sharples. Food credit is given in raw ingredients from the Dining Hall, not in cash. Requests must be submitted 72 hours in advance, and the number of groups which can be accommodated is limited. Pack-outs are provided on a first-come, first-served basis. For more information, please contact the Dining Services Office at (610) 328-8181.

Meals at Bryn Mawr and Haverford College:

Students on a Swarthmore meal plan can obtain meal passes for the Bryn Mawr and Haverford dining halls. Meal passes can be picked up in Sharples from a checker or from the Dining Services office.

Counseling and Psychological Services (CAPS) (www.swarthmore.edu/student-life/counseling-and-psychological-services.xml)

David Ramirez, Ph.D., directs the Counseling and Psychological Services located in the Worth Health Center. It is open between 8:30 a.m. and 4:30 p.m., Monday through Friday, when school is in session. **Appointments** may be made in person or by calling the office at x8059. Emergency assistance may be obtained by going to the Health Center during off hours. Services are free, but generally students are limited to one appointment a week. Off-campus referrals are readily available. There is limited access to a psychiatrist to prescribe and monitor **medications**. All students being seen by the psychiatrist must also be engaged in therapy with one of the CAPS counselors. Students on medications are generally responsible for covering the costs of these medications. The Health Center will help students obtain the medications with proper documentation and payments.

Confidentiality and Communications: Like at the Health Center, students have rights to privacy of treatment. Parent and outside providers' input and information is welcome, but the student must give permission for their therapists to share any information from counseling sessions. In case of danger to self or others, a counselor may contact the student's official emergency contact and relevant College officials. Students, parents, faculty, and staff may consult with CAPS professionals about issues they are seeing in a student. The CAPS staff will help you review the concern from your perspective and how you might proceed with interactions with the student of concern.

Health Services (www.swarthmore.edu/student-life/health-center.xml)

Beth Kotarski, MSN, CRNP, directs the Worth Health Center that is open 24 hours a day, 7 days a week when school is in session.

Confidentiality and Communications: Under Pennsylvania law: *Any minor who is eighteen years of age or older, or has graduated from high school, or has married, or has been pregnant, may give effective consent to medical, dental, and health services for himself or herself, and the consent of no other person shall be necessary.*

Medical, dental, and health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the physician's judgment, an attempt to secure consent would result in delay of treatment which would increase the risk to the minor's life or health.

According to Health Center policy and in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), information is not shared with parents without the explicit permission of the student. Students have the right to expect that all aspects of care will be treated as confidential. Since parents and private health providers can offer valuable insight and support during these times, nurses and campus-employed physicians encourage students to contact parents when a student's medical condition becomes prolonged or requires special testing or hospital admission. We are happy to coordinate care with family health care providers and off-campus specialists. We require a student's permission to share information with these providers.

In the case of **threat to life** of self or others, information will be shared with persons listed as **emergency contacts** as well as with relevant College officials.

Parents are urged to communicate all concerns to the Director or a nurse. Usually plans can

be developed to address these concerns or to obtain permission from students to disclose information. Nurses will assist with arrangements for local housing for parents who are summoned for a medical emergency.

Health care staff does not **communicate with faculty** or others about missed classes, activities, or assignments. Students must give permission for the Health Center staff to be in touch with the relevant class dean who will communicate with professors or other community members. These communications indicate that the student is under the care of a medical professional and will be in touch once she or he is ready to resume work or classes. Class deans can help students strategize ways to make up work, and to approach faculty or others about their situation.

Services are available **ONLY** to enrolled Swarthmore students. Others are directed to local resources.

Outpatient services include: massage therapist, nutrition counseling, allergy injections, physical examinations, gynecological and contraceptive services, sexually-transmitted infection (STI) screening and counseling, travel information and readiness, and wellness information.

Overnight care services, for the short term, are for students needing medical monitoring due to acute medical conditions. More serious conditions are referred to local hospital emergency rooms or to family care. Other students are expected to return to their residence hall room.

Health Insurance

All students must be covered by a health insurance plan that meets the minimum requirements established by the College. The College offers an insurance plan to purchase for students who have no health insurance coverage. The insurance brochure and schedule of benefits are available to view on the Health Center web page at www.swarthmore.edu/health.xml.

Financial Services

Financial Aid Office: Laura Talbot, Director of Financial Aid

Additional members of the financial aid staff can help you with specific questions: Joanne Barracliff, concerning loan processing; Kristen Moore, concerning any financial aid issues, aid decisions, or financing options; and Judy Strauser, concerning financial aid policies. At tax time this office can give you some guidance with your tax returns.

Student Accounts Office: Linda Weindel, Director

Students are expected to have up-to-date accounts with the College. Students who have not satisfied their financial obligations will not be permitted to return to campus, attend any classes, live in campus housing, have a meal plan, register via add/drop (or any other method) for any classes, enroll for the following semester, participate in the room lottery, obtain a transcript, or be permitted to be graduated. If bills are not at zero, keys will not be issued to rooms, registrations will be cancelled and penalties may be assessed for late withdrawal for rooms. Students may not return for the spring term if the balance is not at zero and they will not be permitted access to their rooms. Consult with the Student Accounts office in Parrish E105 if you have questions about your bill.

Information Technology Services (ITS) (www.swarthmore.edu/its.xml)

Connecting to the Network: Macintosh, Windows, Linux-based computers, and most mobile devices can be connected to the network. Swarthmore College normally grants access to its computing network and systems to currently enrolled students, to current and emeriti faculty, and to currently employed staff.

Network Security and Safety: Students share in the responsibility of ensuring the security of the campus network. When connecting to the network for the first time, web browsers will direct students to a registration web site. All student computers must be virus-free in order to connect to the network. Anti-virus software (provided by Swarthmore College) and operating system patches must be installed and current. Students may not use false ID's or impersonate others. There is to be no commercial usage of the network without written permission from the Chief Information Technology Officer.

Statement on Computing Use

Use of the Swarthmore College computer systems is governed by the general norms of

responsible community conduct described in the student, faculty, and staff handbooks, by local, state, and federal laws, and by College policies specific to use of the computer systems and networks. Individuals with access to the Swarthmore College network have the following **obligations and responsibilities**:

1. To respect other people and the College's intellectual environment. Use of the network may not violate federal, state, or local law, including the laws of defamation, forgery, and harassment.
2. **Copyright/trademark infringement**: The copying or serving of copyrighted material such as music, movies, and other multi-media is strictly forbidden. The Digital Millennium Copyright Act (DMCA) provides an opportunity for online service providers (OSPs) to shield themselves from liability for the actions of their subscribers that infringe on the copyrights of others. All institutions of higher education that provide Internet access fall within the scope of the definition of an OSP, with relevant subscribers being their students, faculty, and staff. Information about the Digital Millennium Copyright Act and the College's policy on copyright infringement is on the Web at www.swarthmore.edu/its_copyright.xml.
3. To protect each individual's accounts from **unauthorized use** by others. Every account is provided for the use of a specific individual, and may not be shared with nor loaned to others. Additionally, office computers are generally assigned to specific individuals for College-related work. Staff must obtain permission before using a computer not assigned to them.
4. To respect the **integrity of other users' accounts**. Individuals must not use another person's user ID without express permission or attempt to decode passwords or to access information illegitimately. For example, sending electronic mail under another person's name (forged email) is a violation of this policy.
5. To avoid engaging in any activity that may reasonably be expected to be **harmful to the systems** operated by the College including, but not limited to, attempting to disrupt, gain unauthorized access to, or damage computing and network systems (hardware and software) belonging to Swarthmore College, or to use the College's computing resources to disrupt, infiltrate, or damage systems belonging to others on campus or around the world. When system vulnerability is discovered, users are expected to report it to ITS.
6. To avoid **excess use** of shared resources, whether through monopolizing systems, overloading networks, misusing printers or other resources, or sending spam or unsolicited mass electronic mail.

Violations of these guidelines that come to the attention of ITS will be referred as appropriate to the offices of the Dean, the Provost, or Human Resources. Where appropriate, ITS may temporarily withhold services from students, faculty, or staff while referring the case in a timely manner to the appropriate College office. Sanctions can include termination of all ISP services.

Telephone Services: Each student in on-campus housing is provided a personal telephone number. Telephones may be purchased in the Bookstore. Unlimited on-campus and local calls to surrounding communities as well as to Bryn Mawr and Haverford Colleges are provided free as part of the basic telephone service. The College does not provide direct-dial long-distance calling to students.

Library and Educational Materials

Access: Students may not hinder the educational opportunity of other students by behavior such as removing, hiding, or defacing educational materials. In like manner, the library will protect the **privacy** of all students with regard to any and all information contained in their library records; e.g., books they have checked out, amount or nature of fines, etc. The library adheres to the policy stated in the ALA Policy Manual section 52.4: Confidentiality of Library Records. Please refer to www.ala.org/alaorg/policymanual/libserve.html.

Payment of late-return **fines** is expected in a timely manner. Outstanding fines may affect housing selection and registration as well as access to official transcripts.

Public Safety

Michael J. Hill, Director

Headquarters: Benjamin West House, open 24 hours a day

The department provides round-the-clock uniformed patrol of the campus buildings and grounds by professionally-trained patrol officers who can help in a variety of ways from emergency response to general advice on crime prevention. The number of officers on duty depends on the time of day and the expected level of activity. All officers are in constant radio contact with the College Communications/Reception Center and will be dispatched immediately to the scene of any emergency. Students are encouraged to call the department at x8281 any time they feel Public Safety can be of assistance.

How to Report a Crime

All **emergencies** should be reported by contacting the Department's emergency telephone line x8333. Any crime or suspected crime should be reported immediately to the Public Safety Department. When major incidents occur, the Swarthmore Borough police may also respond. Under most insurance policies, a formal report of loss must be filed before recovery can be made.

College Identification Cards

Student ID cards are issued by the Department of Public Safety. Lost ID cards can be replaced for a \$10 fee at the Department of Public Safety office (Benjamin West House). Swarthmore ID cards are not transferable. Anyone found loaning an ID to another individual for use at Sharples Dining Hall or any College function will be fined \$35. The borrower will also be fined \$35. Misused cards will be confiscated and returned only on application to the Dean of Students.

Upon request, students are obligated to provide College personnel with accurate identification. When investigating a suspicious or unusual circumstance, a Public Safety officer may ask to see the ID card. By showing it, the student will contribute to the overall security of the campus. By not identifying oneself, the student risks being treated as a trespasser and being subject to disciplinary action for failing to cooperate with a Public Safety officer. Rude or abusive behavior in connection with ID requests will be referred to the Deans' Office.

A student may not knowingly provide false information or make misrepresentation to any College office. In addition, the forgery, alteration, or unauthorized possession or use of College documents, records, or instruments of identification, forged or fraudulent communications (paper or electronic mail) are prohibited.

Admission to the Dining Hall, all Social Affairs Committee events, College movies, Upper Tarble dances, etc., will be by valid College ID only. IDs will be checked at the door and checkers are instructed to allow no exceptions. Any guest of a student must be signed in with the name of both the host and guest recorded at the door.

Fire Alarms & Drills

There are two fire alarm code blasts for the Swarthmore area. The fire horn located at the top of the tower by the facilities building will issue a series of three blasts to indicate a general alarm. If the fire is on the College campus the alarm will switch the original three-blast signal to the four-blast series. The fire horn is tested during the fire company meeting every Thursday evening at 7:00 p.m. The Swarthmore Volunteer Fire Company welcomes students as members and active participants.

All building fire alarms are local. In the event of a fire emergency, ring the building fire alarm and call the Department of Public Safety emergency telephone line (x8333) immediately. If students are in a building and the alarm goes off, they should go outside by the shortest possible route and wait until permission is given to re-enter the building.

Fire drills are held periodically in each residence hall for the students' protection. They are scheduled by the RAs and monitored by officers of the Public Safety Department. Students should take the opportunity of a fire drill to learn the quickest and safest ways out of the residence hall.

Parking on Campus

Because of the limited number of parking spaces on campus, only those students receiving permission from the Car Authorization Committee will be issued parking permits. Students must have permission from the Car Authorization Committee and must submit a completed, on-time application in April – late permits cannot be considered. Permits are valid for the Fall and Spring

terms, and students must reapply each year. If you only need a spring permit, you should apply in December. Permit applications will be released by the Deans' Office in April and December, for the following term(s). Being granted a permit one year does not guarantee that you will receive a permit the following year. Students should plan on only being able to secure a parking permit for one of their four years at Swarthmore.

Students who live off-campus in the Swarthmore Borough can secure street parking through Borough Hall, and are not generally eligible for campus parking spots. First-year students are not permitted to bring cars to campus and should not expect to be approved for a parking permit.

Permit requests are reviewed by the Car Authorization Committee and will be awarded based on need and/or special circumstance. Factors considered first when reviewing applications include: medical need or disability, seniority, and official student organizations without a current driver. Additional factors that may be considered include jobs, internships, volunteer commitments, family needs, religious observances, personal needs, etc. We apologize that we are not able to grant a parking permit to every student who applies.

Parking regulations are strictly enforced every day of the year, even when the College is not in session. Do not park on campus without a permit. Students who park in faculty/staff lots risk booting and/or losing future parking privileges. To avoid costly fines and towing charges for illegal parking, eligible students must obtain a parking permit before bringing a car to campus.

Borough Parking: Students who live off-campus and/or who do not receive a campus parking spot may wish to secure parking in the surrounding neighborhoods. Overnight parking (between the hours of 2:00 a.m. and 6:00 a.m.) is prohibited on most streets in the Borough of Swarthmore, and vehicles may not be parked in any one location anywhere in the Borough for longer than 72 hours at a time.

Swarthmore Borough offers many different parking programs for residents, employees, students, and visitors. For more information, call the Borough office at 610-543-4599.

STUDENT CONDUCT: RULES AND REGULATIONS

STATEMENT OF STUDENT RIGHTS, RESPONSIBILITIES, AND CODE OF CONDUCT

The *Swarthmore College Bulletin* states, "Swarthmore College seeks to help its students realize their fullest intellectual and personal potential combined with a deep sense of ethical and social concern. The purpose of Swarthmore College is to make its students more valuable human beings and more useful members of society." Although the College places great value on freedom of expression, it also recognizes the responsibility to protect the values and structures of an academic community. It is important, therefore, that students assume responsibility for helping to sustain an educational and social community where the rights of all are respected. This includes conforming their behavior to standards of conduct that are designed to protect the health, safety, dignity, and rights of all. Community members also have a responsibility to protect the possessions, property, and integrity of the institution as well as of individuals. The aim of both this Statement and the Student Judicial Procedures is to balance all these rights, responsibilities, and community values fairly and efficiently.

Jurisdiction: Swarthmore College policies and jurisdiction normally apply only to the conduct of matriculated students occurring on Swarthmore College property or at College-sanctioned events or programs that take place off campus. In situations in which both the complainant and accused are matriculated Swarthmore College students, however, College policies and jurisdiction may apply regardless of the location of the incident. In the event that a student organization violates a college regulation, the organization, as well as its individual members, can be held accountable for the violation and sanctioned by the College. Finally, students should also realize that they have the responsibility to ensure that their guests do not violate College policies, rules, and regulations while visiting, and that students may be subject to disciplinary action for misbehavior of their guests.

Complaints: A complaint against a student may be made to the deans by a student, a Public

Safety officer, a member of the College's faculty or staff, or a College department. If the alleged incident represents a violation of federal, state, or local law, the complainant also has the option of initiating proceedings in the criminal or civil court system regardless of whether a complaint is filed within the College system.

The following is a summary and explanation of the rights, responsibilities, and rules governing student conduct at Swarthmore College. This Statement serves as a general framework and is not intended to provide an exhaustive list of all possible infractions. Students violating any of the following are subject to disciplinary action. All sanctions imposed by the judicial system must be obeyed or additional penalties will be levied. For a complete description of the College's judicial process, please see the section on Student Judicial Procedures.

Academic Freedom and Responsibility

The following is excerpted from The Handbook for Instructional Staff, Section II.A.2.

Swarthmore College has long subscribed to the fundamental tenets of academic freedom articulated in the 1940 Statement of Principles on Academic Freedom and Tenure by the American Association of University Professors. This doctrine has been reiterated and amplified in the Association's 1970 Statement on Freedom and Responsibility. Swarthmore College adheres to the 1970 Statement, relevant portions of which are reproduced below. The complete texts of the Association's 1940 and 1970 Statements may be found in AAUP publications.

Expression of Dissent: Membership in the academic community imposes on students, faculty members, administrators, and trustees an obligation to respect the dignity of others, to acknowledge their right to express differing opinions, and to foster and defend intellectual honesty, freedom of inquiry and instruction, and free expression on and off the campus. The expression of dissent and the attempt to produce change, therefore, may not be carried out in ways which injure individuals or damage institutional facilities or disrupt the classes of one's teachers or colleagues. Speakers on campus must not only be protected from violence, but given an opportunity to be heard. Those who seek to call attention to grievances must not do so in ways that significantly impede the functions of the institution.

Faculty Responsibility: Students are entitled to an atmosphere conducive to learning and to evenhanded treatment in all aspects of the teacher-student relationship. Faculty members may not refuse to enroll or teach students on the grounds of their beliefs or the possible uses to which they may put the knowledge to be gained in a course. The student should not be forced by the authority inherent in the instructional role to make particular personal choices as to political action or her/his own part in society. Evaluation of students and the award of credit must be based on academic performance professionally judged and not on matters irrelevant to that performance, such as personality, race, religion, degree of political activism, or personal beliefs.

If a student has a grievance against a faculty member that cannot be resolved directly through the faculty member involved, the student should take her or his concerns to the department chair. If the grievance remains unresolved, the student should contact the Provost.

Harassing Expression

The section that follows outlines the College's policy for adjudication of harassing expression. The intention in stating this policy is not to reduce complicated and painful interactions to a list of rules, which after all must be cautious and limited. On the contrary, these policies are listed in order to both facilitate the free expression of ideas and to support those who feel that they have been victimized by another's expression. The College provides several resources to help those who believe that they may have been harassed, and those resources are listed in the "Options for Resolution of Harassment" section below. Students are encouraged to seek assistance from those offices listed, and from friends and counselors already known. It is unconscionable that members of the community should suffer harassment. Since the damage done by expression is in essence a community problem, we wish to emphasize that we are committed to working out these problems as a community. We hope together to find the patience, support, discernment, and courage that it takes to combat expressive abuse, and we offer the following policy to describe our administrative response to a problem that we are determined to work through on all levels of college life. If the official policies outlined here seem daunting as the student seeks help responding to an incident that is troubling, the student is urged to come forward and talk to the members of the community who are familiar with them.

The offices named in this document can help the student to take action, to understand her/his rights and responsibilities, and ultimately to recover from the effects of harassing speech. The College's commitment to freedom of expression on this campus is in no way meant to keep individuals from getting the assistance needed if one feels that s/he may have been the subject of expressive harassment. Swarthmore College seeks to maintain an environment of mutual respect among all its members. All forms of violence, assault, intimidation, and harassment, including that based on sex, race, color, age, religion, national origin, sexual orientation, gender expression, or disability, undermine the basis for such respect and violate the sense of community vital to the College's educational enterprise. This statement of policy should not be taken to supersede the College's commitment to academic freedom, which it hereby reaffirms. The reasoned expression of different views plays a particularly vital part in a college community. Freedom of expression, fundamental to an exchange of views, carries with it corollary responsibilities equally basic to reasoned debate.

The College seeks to sustain an environment in which harassment has no place. Those who harass others will be subject to serious sanctions.

Definition, Principles, and Criteria

Harassment can take many forms, and it needs to be emphasized that harassment can be and often is non-physical, including words, pictures, gestures, and other forms of expression. To count as harassment, such expression must be reasonably regarded as (a) taunting¹, vilifying², or degrading³ whether (b) directed at individuals or groups (subject to the clarification and qualification below) and (c) where reasonable people may suppose that such expression harms its target(s) by substantially interfering with their educational opportunities, peaceful enjoyment of residence and community, or terms of employment. Further, to count as harassment subject to possible formal grievance procedures, such expression must (d) be taken *either* with the intent to interfere with the protected interests mentioned in (c), above, *or* with reckless disregard to the nature of the conduct. Such intent or recklessness must be inferred from all the circumstances. Finally, (e) such expression must be repeated and persistent. To be ~~repeated~~ and persistent," the offending conduct must have been brought to the attention of the defendant (though not necessarily by the complainant), be of the same kind, and repeated. There are two reasons for adding (e): first, the College wishes to have the opportunity to educate those who may not realize that certain expression constitutes harassment; second, by requiring that the expression be repeated and persistent, the College helps establish intent or recklessness. However, (f) before any expression can be considered for possible formal grievance procedures, it must be clear that no substantial free expression interests are threatened by bringing a formal charge of harassing expression. This strict criterion for possible formal grievance procedures must be imposed to insure that the college does nothing that would tend to diminish free expression or compromise principles of academic freedom in the vigorous and often contentious examination and criticism of ideas, works of art, and political activity that marks Swarthmore College.

Because groups have been included in (b), above, the following clarification and qualification is in order. If expression that would be regarded as harassing if directed at an individual is directed at a group — where no individuals are specifically named or referred to as targets — any member of that group will have an adjudicable complaint only if it can be established that a reasonable person would regard that offending expression as harassing each and every member of the group as individuals.

Stalking is a form of harassment, which, following Pennsylvania Criminal Code occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances that demonstrate either of the following:

- a) placing the person in reasonable fear of bodily injury; or,
- b) reasonably causing substantial emotional distress to the person.

Uncivil and Demeaning Non-Harassing Expression

¹ Derisive, mocking, ridiculing, or jeering expression.

² Forceful defaming or degrading expression with intent to make the target of the offending expression vile or shameful, recklessly disregarding the effects of one's expression in these respects.

³ Subjecting one to public shame that normally cause feelings of inferiority or loss of self-respect.

As a member of Swarthmore College, one's moral responsibilities extend beyond formally-sanctionable conduct. All of us, therefore, have a responsibility not to indulge in gratuitous offensive expression just because it may not be subject to official sanctions. Anonymous offensive expression is generally inexcusable, but the risk of harm in making adjudicable all forms of offensive expression would not only outweigh the benefits of official proscription, it would also seriously endanger academic freedom. When individuals (or groups) admit authorship they act irresponsibly if they are unwilling to engage in a defense of their views, especially with those targeted. Anonymous posters, chalkings, and electronic communications may be removed by College officials.

Perpetrators of alleged non-adjudicable but uncivil expression should engage the objects of their attacks through discussion and, possibly, mediation. If they do not, however, no disciplinary action will be taken, though College officials or anyone else may publicly decry the content and manner of such expression.

It needs stressing again that the College will in no way formally discourage any argument, provided it does not include threats of violence, though what is said may be deplorable and very possibly more diatribe than argument.

Case materials will be reviewed in light of the AAUP statement On Freedom of Expression and Campus Speech Codes (adopted 1994).

Options for Resolution of Harassment

Charges of harassment may be handled according to either informal or formal procedures. In general, opportunities for education and awareness are important elements in the resolution of harassment issues, sexual or otherwise. Individuals who have concerns about questionable behavior are encouraged to speak with a dean or the EO officer. Regardless of whether or not options for resolution are pursued within the College system, complainants always have the option of seeking formal legal redress.

Role of the Equal Opportunity Officer: In cases of alleged harassing expression, the Equal Opportunity Officer (EO) will decide whether the offense merits adjudication. If the EO Officer determines the offense should be adjudicated, the case materials must first be reviewed by three or more faculty members of the College Judiciary Committee (CJC), who shall determine whether any substantial free expression issues are at stake. If the CJC faculty members find that formal grievance procedures of the case would violate individual rights to free expression or the College's commitment to academic freedom, the case will not go forward. Instead, the case will be referred back to the EO Officer who may discuss with the complainant(s) other options for resolution. If, on the other hand, it is determined by the faculty members of the CJC that the case represents no infringement on the right to free expression, the grievance will be allowed to go forward.

Adjudication: If the decision is made to adjudicate, and the perpetrator(s) is found guilty, the determination of the degree of harm caused will affect the level of punishment up to and including expulsion. It will not be a defense that one did not intend the harm caused—that it was reckless. Lack of intent, however, may be a mitigating factor in determining the degree of punishment.

Mediation: When adjudication is not deemed appropriate, mediation may be suggested, and it will normally be preferred as a first step anyway. In particularly egregious cases, however, the Equal Opportunity Officer may recommend adjudication without mediation. (Note: Mediation at Swarthmore College is never required: all parties involved must willingly agree to participate in the mediation process.)

Status distinctions: In cases in which grievants and alleged offenders are from different parts of the community (students, staff, or faculty), complaints should be directed to the responsible office according to the identity of the alleged offender: Human Resources for staff, Deans' Office for students, and Provost for faculty. The formal grievance procedures are specified in the relevant sections of the corresponding Handbooks. Assistance and information are available from the offices listed below.

Provost's Office
Deans' Office
Human Resources Office
Equal Opportunity Office

Records: It is important to note that discussing concerns with or seeking clarification or support from College officers does not obligate a person to initiate either formal legal procedures or judicial procedures at the College, nor do such discussions preclude a person from doing so. The College officer to whom a complaint is made will record each request for assistance in resolving a case involving charges of harassment, whether formal or informal; these records will be kept confidential to the extent permitted by law.

Communication: Often perceived harassment is subtle; it cannot be assumed that the perceived offenders are aware of the way in which their behavior has been interpreted and the responsibility for resolution is shared by both parties. Either directly or through a third party, grievants should make their discomfort known to perceived harassers. Perceived harassers have a responsibility to attempt to understand both the intentional and unintentional effects of their behavior and to respond in a thoughtful, sensitive manner to those perceived effects. The grievant can consider all the informal and formal means available for resolution and choose what seems most useful and workable in a particular case. The grievant must also weigh the fact that the perceived harasser may continue the offensive behavior until being made aware of his/her actions. In the most serious instances of harassment, it is unreasonable to expect grievants to confront their perceived harassers; in these cases the grievant should enlist the help of a trained third party.

Investigations: Swarthmore College is an educational institution, not a civil society with the responsibilities or resources of a civil society. It makes no promises or guarantees, express or otherwise, that it will undertake efforts to ferret out those who act to violate the proscriptions set out above. Those who regard themselves as having been targets of fraudulent or degrading expression, of course, may avail themselves of legal remedies at their own initiation and expense; e.g., regarding libel or slander.

Other Misconduct

Disorderly Conduct: Students at Swarthmore College have the right to express their views, feelings, and beliefs inside and outside the classroom and to support causes publicly, including by demonstrations and other means.

These freedoms of expression extend so far as conduct does not impinge on the rights of other members of the community or the orderly and essential operations of the College. Disorderly conduct is not permitted.

Violation of the orderly operation of the College includes, but is not limited to:

1. Excessive noise, which interferes with classes, College offices, dorm neighbors, or other campus and community activities;
2. Unauthorized entry into or occupation of a private work area;
3. Conduct that restricts or prevents faculty or staff from performing their duties;
4. Failure to maintain clear passage into or out of any College building or passageway.

Intimidation: Verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person or persons in the group to fear for their physical well-being constitutes intimidation and is prohibited. Anyone who attempts to use intimidation or retaliation against someone who reports an incident, brings a complaint, or participates in an investigation in an attempt to influence the judicial process will be subject to serious sanctions.

Reckless Conduct: Conduct – whether reckless or intentional – that a person knows, or which any reasonable person under the circumstances would know, places oneself or another at risk of bodily harm is subject to disciplinary action, whether or not the risk is realized. The Dean will review the conduct and the circumstances in which it occurred and decide – at her discretion – whether it falls under a minor or major adjudication, or to refer it to the College Judicial Committee (CJC) for adjudication. Examples include, but are not limited to, swinging a baseball bat in a narrow dormitory hallway, putting a slippery substance underfoot to cause someone to slip and fall (reckless), and punching, biting, kicking another to cause pain, or any other violent act (intentional). The more reckless the conduct and the greater the risk of serious bodily harm and/or the greater the actual bodily harm caused, the greater the likelihood of a severe sanction.

Physical Assault: A purposeful action meant to hurt another person. Examples include, but are not exclusive to kicking, punching, hitting with or throwing an object, or biting. Verbal

assault is regulated in the section covering Expression.

College and Personal Property

1. Illegal Entry

Unauthorized entry into or presence within enclosed and/or posted College buildings or areas, including student rooms or offices, even when unlocked, is prohibited and may subject a student to fines and other sanctions.

2. Locks and Keys

Tampering with locks to College buildings, unauthorized possession or use of College keys, and alteration or duplication of College keys is against College policy.

3. Theft or Damage

Theft and negligent or intentional damage to personal or College property will subject a student to paying for the repair or replacement of the damaged property as well as to disciplinary action. In the event that damage occurs in a residence hall for which no one assumes responsibility, payment for damages will be divided equally among all residents of that hall. For damage that occurs during a student event in a space other than a residence hall and for which no individual student(s) accept(s) responsibility, the sponsoring students and/or organization will be held accountable for the money for replacement or repair of the damaged property and may be subject to further disciplinary action. Splicing into cable lines can result in fines and other penalties.

4. Unauthorized Possession

Students may not possess College records, official communications, stationary or other official documents or blank official materials. Personal academic materials such as tests and personal electronic messages are included in unauthorized possession.

Actions Potentially Injurious to Oneself or Others

1. Smoking

Smoking is prohibited in all public spaces throughout the College: meeting rooms, lounges, offices, and residence halls. A \$25 fine in addition to other potential penalties, including exclusion from campus housing will be charged for violating this policy. Smoking is allowed outdoors at a minimum distance of 25 feet from all buildings.

2. Fires, Fire Safety Equipment, and Alarms

Tampering or interference with, as well as destruction or misuse of, fire safety and fire prevention equipment is prohibited and is a violation of state law. An automatic fine of \$125 for each piece of equipment plus the cost of replacement of equipment is charged to any student violating this regulation, and further disciplinary action may be taken. Any student who causes an alarm to be set off for improper purposes is liable for the expenses incurred by the fire department(s) in responding to the alarm. If no individuals accept responsibility when a violation of this policy occurs in a residence hall, all residents of that residence hall are subject to fines and charges for costs incurred by the College and/or fire department(s).

Open flames are not permitted in residence halls. Any student with an open flame (e.g., candle, incense) will be subject to a \$500 fine. Students are financially responsible for damages resulting from reckless conduct or violation of College rules regulating residence hall safety.

3. Weapons and Fireworks

No student may possess or use a firearm on Swarthmore College property or its environs. Firearms, including rifles, shotguns, handguns, air guns, and gas-powered guns and all ammunition or hand-loading equipment and supplies for the same, are not allowed. No student may possess or use fireworks on Swarthmore College property or its environs. Items such as knives that could be viewed as weapons are forbidden. Requests for exceptions must be made to the Dean.

4. Climbing on College Buildings or Structures

Climbing on any College building, or being present on building roofs is not allowed. In unusual circumstances, arrangements to climb pre-designated locations may be coordinated through the Department of Public Safety.

Violation of Local, State, or Federal Law

Whether local, state, federal or (when on foreign study) foreign, violation of the laws of any jurisdiction may at the discretion of the Dean subject a student to College disciplinary action. A pending appeal of a conviction shall not affect the application of this rule.

ACADEMIC MISCONDUCT

The following procedures were adopted by the faculty on Feb. 16, 2001, and are excerpted from Section II.B.7 of The Handbook for Instructional Staff.

1. **Definitions:** Academic misconduct is defined as a violation of the College's standards of academic integrity whether these violations are intentional or unintentional. Academic misconduct consists of cheating on an exam; plagiarism on a paper, lab reports, problem sets, or honors work.

2. **Evidence:** Good evidence may include, but is not limited to, the following:

- a. Some of the student's work coincide with or closely paraphrases a source that is not properly acknowledged. Sources that must be acknowledged include, but are not limited to, lab manuals, books, articles in books, journal articles, web pages, graphs, charts, tables, data sets, etc., in any of the sources just mentioned. Proper acknowledgment must indicate both the source and how it served as a source for any specific portions of the student's work that have been based on it.

Standard Citation Practices

Writers may refer to a handbook on scholarly writing for information about correct citation procedures. The MLA Handbook for Writers of Research Papers is particularly useful since it also provides examples of plagiarism. Supplementary departmental regulations governing joint projects, etc., may be found on file in departmental offices. The informal nature of some writing may obviate the necessity of rigorously formal citation, but still requires honest attribution to original authors of all borrowed materials. Students should feel free to consult with instructors whenever there is doubt as to proper documentation.

Fear of being charged with plagiarism need not inhibit anyone from appropriately using another's ideas or data in a piece of writing or creative work. Even direct quotation frequently serves as an effective device in developing an argument. Academic honesty requires only that writers properly acknowledge their debts to other authors at least by means of quotation marks, footnotes, and references, if not also with in-text phraseology like "Einstein argued in 1900 that..." or "As Melville implies in Chapter 3 of *Moby Dick*..." Such usage is fully within the tradition of forthright academic work.

- b. Glaring coincidences in the work of students on exams, papers, problem sets, etc., where cooperation in producing the work was not permitted. Faculty members have access to TurnItIn.com to review student work.
- c. Submission of the Same Work in More than One Course. When submitting any work to an instructor for a course, it is assumed that the work was produced specifically for that course. Submission of the same work in more than one course without prior approval is prohibited. If the courses are being taken concurrently, approval of the professors for both courses is required. If a student wishes to submit a paper which was written for a course taken in a previous semester, the student need only obtain the permission of the professor teaching the current course involved.

3. **Procedures**

- a. An instructor who has good evidence to suspect a student or students of academic misconduct will, at the instructor's discretion, consult the department chair about the case. Mere suspicion on the part of a faculty member that the student's work does not sound right is normally not by itself sufficient grounds to bring a case forward in the absence of good evidence.
- b. In any event, the instructor will meet with the student (or students) to present evidence to the student and may, at the instructor's discretion, invite the department chair to be present.

- c. After this meeting, if the instructor's suspicions are not allayed, the instructor will submit a report to the Associate Dean for Student Life. The report will include a narrative of the incident and evidence supporting the charge. The College Judiciary Committee (CJC) will adjudicate academic misconduct cases.
- d. The regular procedures of the Judicial System, as noted later in this Handbook, are followed.

4. Sanctions

- a. The College Judiciary Committee will consider the case, make a finding of guilty or not guilty on the basis of the preponderance of the evidence, and will determine an appropriate sanction if a finding of guilty is reached.
- b. In determining a sanction the Committee will consider all the circumstances of the case including the intent of the student, the character and magnitude of the offense, the considered evidential judgment of the faculty member bringing the accusation, and mitigating circumstances.
 - i. In academic misconduct cases, the CJC makes the determination on the issue of probation, suspension, or expulsion. The CJC may recommend to the faculty member the sanction relating to the grade penalty, citing precedence. The faculty member has final determination in this area. It is the opinion of the faculty as a whole that for an intentional first offense failure in the course and probation normally is appropriate. Suspension for a semester or deprivation of the degree in that year may also be appropriate when warranted by the seriousness of the offense.
 - ii. For a second offense, the penalty normally should be a year-long suspension or expulsion.

5. Education and Information

The integrity of a liberal arts education depends on the principle of academic integrity. Educating the community about the academic misconduct policy is essential to the educational goals of the College.

Both students and faculty will be regularly informed about the college's academic misconduct policy in a variety of ways such as the following: by their instructors or advisors, by the Deans' Office, and by means of statements in such places as the College catalogue, faculty and student handbooks, the College web site, departmental or divisional handouts, etc. Discussion of the policy may also be part of such sessions as orientation for first-year students in the Fall, orientation for new faculty, and in Writing Associates (WA) and Student Academic Mentor (SAM) training. Students must finally take the responsibility for understanding the rules with respect to proper citation of sources and the College's academic misconduct policy.

SEXUAL MISCONDUCT

Sexual misconduct represents a continuum of behaviors ranging from physical sexual assault and abuse to sexual harassment and intimidation. Anyone can be subject to and can be capable of sexual misconduct. It can occur between two people, whether or not they are in a relationship, in which one has power over the other, or are of different sexual identities. The College is committed to a learning and living environment that is free of sexual misconduct, discrimination, and harassment of any kind. All forms of sexual misconduct are prohibited and are serious violations of the College's code of conduct. Whenever the College learns of allegations of sexual misconduct, it will take appropriate action to investigate the allegations and take prompt remedial action.

The College has a number of programs and organizations that address issues of sexual misconduct. The RAs, Sexual Misconduct Advisors & Resource Team (SMART) members, and Sexual Health Counselors are trained how to respond to sexual misconduct and provide education to the campus about how to avoid difficulties. Workshops for the new students during orientation explain and explore policies and cultural norms about sexual matters. The Clothesline Project, Take Back the Night, and other events highlight community concerns about sexual assault and its consequences.

Students who are the victim of sexual misconduct are encouraged to report the incident immediately. There are also a number of services available at the College to support survivors of sexual misconduct.

A. **Definitions of Sexual Assault, Consent, Sexual Harassment, and Indecent Exposure**

1. Definition of Sexual Assault

Sexual assault is defined as any sexual contact that occurs without the consent of the other person. Specifically, it is intentional physical contact with an intimate part of the body or with clothes covering intimate body parts without the consent of the person touched. Sexual assault includes but is not limited to sexual penetration of an unwilling person's genital, anal, or oral openings; touching an unwilling person's intimate parts such as genitalia, groin, breasts, lips, buttocks, or the clothes covering them; or forcing an unwilling person to touch another person's intimate parts or clothes covering them. When sexual assault occurs repeatedly between individuals, it is referred to as sexual abuse.

2. Definition of Consent

Consent is an understandable exchange of affirmative words or actions that indicate a willingness to participate in mutually agreed upon sexually explicit touching or sexual penetration. Consent must be informed, and freely and actively given. Consent is active not passive and consent is possible only when there is equal power.

It is incumbent upon each individual involved in the activity to either obtain or give consent prior to any sexual activity, *and again*, prior to sexual penetration. If at any time during the sexual interaction any confusion or ambiguity should arise on the issue of consent, it is incumbent upon each individual involved in the activity to stop and clarify, verbally, the other's willingness to continue.

- A verbal ~~no~~, "even if it may sound indecisive or insincere, constitutes lack of consent.
- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent.
- Once consent has been established, if a person decides to no longer participate in the sexual activity, it is expected that the person will communicate through words or actions, the decision to no longer proceed.
- Past consent to sexual activity does not imply future ongoing consent, and the fact that two persons are in an on-going relationship shall not preclude the possibility that sexual misconduct or sexual assault might occur within that relationship.
- A person who is asleep or mentally or physically incapacitated, either through the effect of alcohol or drugs, or for any other reason, is not capable of giving valid consent and consent is not valid if a reasonable person would understand that such a person is incapable of giving valid consent.
- A student's use of alcohol and/or other drugs shall not diminish a student's responsibility to obtain informed and freely given consent.

3. Definition of Sexual Harassment

The following definition is based in part on those formulated by the Federal Equal Opportunity Commission and The Office for Civil Rights of the U.S. Department of Education. Sexual Harassment, a form of discrimination based on sex or gender clearly endangers the environment of mutual respect and is prohibited. Swarthmore College also finds that harassment based on sexual orientation, gender identity, or gender expression is a form of sexual harassment for purposes of the College's policies. Some behavior that constitutes sexual harassment within this policy may also be a violation of law (Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Swarthmore Borough Ordinance on Non-Discrimination) and students always have the option of pursuing claims through other options, including law enforcement or civil claims.

Sexual harassment is of two basic types:

- a. **Intimidating, Hostile, or Demeaning Environment:** Any unwelcome action, verbal expression, usually repeated or persistent, or series of actions or expressions that have either the intent, or are reasonably perceived as having the effect, of creating an intimidating, hostile, or demeaning educational, employment, or living

environment for a student or College employee, either by being sexual in nature or by focusing on a person's gender, sexual orientation, gender identity, or gender expression. An intimidating, hostile, or demeaning environment is defined as one that is so severe, pervasive, or objectively offensive that it interferes with a person's ability to learn, exist in living conditions, work (if employed by the College), or have access and opportunity to participate in all and any aspect of campus life.

b. **Quid Pro Quo Harassment** - Any action in which:

- i. submission to conduct of a sexual nature is made either explicitly or implicitly a term or condition of an individual's education, grades, recommendations, opportunities or employment, or
- ii. submission to or rejection of such conduct is used as the basis for academic or employment decisions affecting that individual.

Sexual misconduct committed by faculty or staff: The College prohibits sexual misconduct by a faculty or staff member against a student. The College policy governing staff and the related grievance procedures can be found in the Staff Handbook. The College policy governing faculty and the related grievance procedure can be found in The Faculty and Instructional Staff Handbook. Please contact the Title IX Coordinator to discuss your concerns and have your options for resolution explained to you.

Because at Swarthmore it is not unusual for students to supervise other students, or for students to have actual or perceived power or influence over another student's academic performance (e.g., student graders, student laboratory assistants, and student writing associates), there can exist a power imbalance between students that makes it possible for quid pro quo harassment to occur between them.

4. Descriptions of Sexual Harassment

Sexually harassing behaviors differ in type and severity and can range from subtle verbal harassment to unwelcome physical contact. Sexual harassment includes but is not limited to:

- a. Unwelcome verbal or physical advances, persistent leers, lewd comments.
- b. The persistent use of irrelevant references that insult or degrade a person's gender, or the use of sex stereotypes to insult or degrade.
- c. The use by a person in authority of his/her position to coerce another person to do something of a sexual nature that s/he would not otherwise do. Coercion need not involve physical force.
- d. **Stalking** is a form of harassment, which, following Pennsylvania Criminal Code, occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances that demonstrate either of the following:
 - i. placing the person in reasonable fear of bodily injury; or,
 - ii. reasonably causing substantial emotional distress to the person.

There is a wide range of behaviors that falls within the general definition of sexual harassment and many differing notions of what behaviors are and are not acceptable. **Key determining factors** in instances of sexual harassment are that the behavior is unwelcome, is gender-based, and is reasonably perceived as offensive and objectionable. Such behavior need not produce or threaten some tangible loss to the receiver in order to be deemed harassment. If it is unclear that the behavior constitutes harassment, the effected person should not spend considerable time struggling alone with this issue. Students are strongly encouraged to bring their issues to the Title IX Coordinator LaMar, the head of the Worth Health Center Beth Kotarski, a dean, or others trained in this area for support, clarification, and to discuss options for informal resolution or formal adjudication. For copies of the "Sexual Misconduct Resources" chart, see the Dean's office.

Making the harasser aware: It cannot be assumed that the offending persons are aware of the ways in which their behavior constitutes sexual harassment. It is important to understand that without in some way being made aware of the offensive actions, the harasser may continue the offensive behavior. The grievant is never under any obligation to come into contact with the harasser in ways that are uncomfortable. Instead, the

grievant can consider all the informal and formal means available for resolution and choose what seems most useful and workable in the particular case. In the most serious instances of sexual harassment, it is unreasonable to expect grievants to confront their perceived harassers; in these cases, the grievant should enlist the help of a trained third party such as the Title IX coordinator, a dean, or another person trained in this area. Students are never required to work out problems directly with the alleged harasser, and while voluntary mediation or informal dispute resolution may be appropriate in certain types of disputes, not involving sexual violence, a victim always has the right to file a formal complaint under the process described below.

It is important to remember that any member of the community can be guilty of sexually harassing any other member regardless of position of authority or status. Although students have often found it difficult to come forward when the perceived harasser is in a position of authority or is threatening, procedures are in place to respond and to provide support throughout the resolution process. Further, as explained below, it is a violation of College policy for anyone to retaliate against a person for reporting acts of sexual misconduct and the College will promptly respond to any acts of retaliation.

5. Indecent Exposure

Pennsylvania law regulates nudity and indecent exposure. Severe consequences can occur from breaking this law including being placed on the registry of sexual offenders. College policy follows the state laws and does not permit public nudity.

B. Support Services in the Event of a Sexual Assault

The College has several major concerns in the event of a sexual assault: to provide physical safety, emotional support and medical care to the survivor. The College will also help the survivor seek resolution through internal and/or criminal methods if that is desired and will take whatever actions are necessary and appropriate to investigate and resolve situations involving sexual misconduct which create a hostile environment at the College.

If you are assaulted you should:

1. Go to a safe place
2. Seek support from someone you trust
3. Seek medical attention

Obtaining Medical Care

Go to Worth Health Center (x8058)

Worth is staffed 24 hours a day to assist students. The survivor will be examined by a nurse who will assess the survivor's injuries. Once stable, the survivor has the option of going to the hospital for care, or seeing a nurse practitioner at the Health Center. The primary purpose of the medical evaluation is to check for physical injuries, presence of sexually transmitted diseases, and pregnancy as a result of the rape. The survivor will be encouraged to have evidence collected. If the survivor chooses to have evidence collected, the survivor will be escorted to the nearest hospital by Public Safety. The survivor can later return to Worth Health Center for follow-up medical care. Another resource available is Counseling and Psychological Services (CAPS). While at the Health Center, the survivor may request to speak with a CAPS counselor.

Go to the Emergency Room of the nearest hospital

At the emergency room an examination and collection of evidence will take place. The hospital will either complete a rape kit or transfer you to a nearby hospital that will do so. The survivor should not shower, bathe, douche, smoke, drink, or change clothes between the time of the incident and the time of the collection of evidence. The survivor should bring a change of clothes including underwear. The police and Women Against Rape (WAR) will be notified. WAR will be present to provide support for the survivor. Most hospitals have a policy to report all rapes. Going to collect evidence does not mean that the survivor must press charges.

Confidential Supportive Resources

In the event that the survivor desires **confidential consultation** with someone on campus for support, professionals of the following departments can provide confidential support:

- Worth Health Center
- Counseling and Psychological Services
- Alcohol and Drug Intervention Specialist
- Religious Advisors

Reporting by Confidential Resource Personnel

Because these relationships involve privileged conversations, employees of these departments will **not** refer the survivor's concerns to the Title IX Coordinator for investigation UNLESS the survivor specifically consents for them to do so. Worth Health Center personnel will make an anonymous statistical Clery report to Public Safety, where appropriate. Annual Clery reporting to the U.S. Department of Education is required by educational institutions for certain offenses that have been reported at campus locations. The information contained in the Clery report only tracks the number of Clery reportable offenses occurring at campus locations, but does not include the names of any other information about the persons involved in the incident. In accordance with the U.S. Department of Education regulations, Clery statistics do not include incidents shared solely with CAPS or Religious Advisors/Clergy personnel.

Additional Support Services

In addition to medical support, a survivor can also seek out the deans for specific support related to academics and help in communicating with faculty and they can specifically talk with the Assistant Dean of Residential Life about a new room assignment, if this is appropriate. The Title IX Coordinator, the RAs, and SMART Team members are also available for support and comfort.

The survivor may use any of these support options, without choosing to press charges or making a formal complaint. However, the survivor should know that when contacting any support option that is not specifically listed as a confidential resource above, a referral will be made to the Title IX Coordinator, Sharmaine LaMar, for investigation.

C. Reporting a Sexual Assault to Public Safety or the Borough Police

Call Public Safety

If the sexual assault has been by a person who is not known or if there is danger the assailant may make an immediate escape from campus, the victim or someone else should call Public Safety at 610-328-8333 immediately. The person answering the phone will have a list of questions to ask, will get a description of the suspect, and will immediately mobilize help for the survivor. They will rush to detain the suspect and publish an immediate security brief. It is important to note that the community may be alerted to the presence of danger without identifying the victim. This will be done to help prevent further incidents on campus. Public Safety may also notify the Swarthmore Borough Police, providing a description of the suspect. If the Borough Police are notified, and a suspect is caught, the case may be handed to a local prosecutor for a potential trial. Public Safety will also notify Sharmaine LaMar, Title IX Coordinator.

Call Swarthmore Borough Police (911)

Promptly reporting incidents to the police will enable the authorities to gather important evidence for investigations and potential hearings. The police will interview the survivor and gather evidence. They may contact a counselor from WAR (Women Against Rape). If the survivor has been assaulted by someone s/he does not know, they will attempt to apprehend the suspect. Swarthmore Borough Police generally escort the survivor directly to the emergency room. Public Safety will have access to any call made to Swarthmore Borough Police. The College will assist a student in notifying law enforcement authorities if the student requests the assistance of these personnel. Reporting promptly will enable police authorities to gather evidence needed for potential future hearings.

D. Reporting & Investigation

Regardless of whether a victim of sexual misconduct initiates formal proceedings, where the College has reason to know about possible sexual misconduct, it has an independent obligation to promptly investigate the matter and then take appropriate steps to resolve the situation. Therefore, where a victim shares information about sexual misconduct with a college employee (excluding the confidential providers in the Health Center, CAPS, the

Alcohol and Drug Intervention Specialist, or Religious Advisors) the employee will refer the matter to the Title IX Coordinator, Sharmaine LaMar, for investigation. The College will consult with the complainant and seek their consent before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the school will take all reasonable steps to investigate and respond to the incident consistent with the request for confidentiality or request that the matter not be investigated. In considering a request for confidentiality or a request that the investigation not be pursued, the College will consider, among other things, the seriousness of the alleged harassment, the complainant's age, and whether there have been other harassment complaints about the same individuals. Because of the College's independent obligation to ensure an educational environment free from harassment, it cannot guarantee confidentiality under all circumstances when it is requested.

Investigation Process: Once a report of sexual misconduct is made to the Title IX Coordinator, she will then oversee an investigation of the complaint, which will be conducted either by herself, Public Safety, or another investigator with appropriate training in responding to allegations of sexual misconduct. The investigator will conduct the investigation in the manner appropriate in light of the circumstances of the case, which may include interviews with the complainant, the accused, and any witnesses. Once the investigation is complete, the investigator will issue a report setting forth the factual findings of the investigation. This report will usually be completed within 20 (twenty) business days of receiving the complaint, but may take longer or shorter depending on the complexity of the circumstances of each case. In no case will an investigation last longer than 60 days. The report will be forwarded to the Dean's Office and included in the evidence for any judiciary action. The accused and accuser will have the opportunity to file a written response to the investigator's report, which will also be included in the evidence. The report will be factual in nature and will not make a finding as to the student's guilt or innocence, which is reserved exclusively for a Dean's Adjudication or the College Judiciary Committee Panel hearing the case.

Where the allegations involve a student, the Dean's Office, will have the discretion to institute formal proceedings against the student with the investigation report serving as the complaint. In making this determination, the Dean's Office will, among other things, take into consideration whether the accusing student has requested confidentiality, whether the accusing student wants to participate in a formal complaint, the severity and impact of the sexual misconduct, whether the accused admits to the sexual misconduct, whether the accused has a pattern of committing sexual misconduct, the extent of prior remedial methods taken with the accused. Even if formal proceedings are not pursued, the Dean's Office will have the discretion to require the accused to participate in remedial measures that ensure sufficient education and counseling of the College's policies. Disciplinary action may also be taken in the absence of formal proceedings, where the accused admits to the misconduct and there is no discernible dispute in the relevant facts of the investigation report.

If the allegations do not concern a student, the Title IX Coordinator will nonetheless fully investigate the allegations and take whatever remedial action is appropriate, including invoking the procedures described in either the Faculty and Instructional Staff Handbook or the Staff Handbook, when the conduct involves College faculty or staff members.

The Title IX Coordinator will register each request for assistance in resolving a case involving charges of sexual misconduct, whether formal or informal, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

Please review the procedures outlined in the Judicial Procedures and Conflict Resolution sections of the handbook for more detailed information about both the formal and informal processes available within the College. Complainants always have the option of filing a complaint in civil or criminal court or with the Office of Civil Rights.

E. Filing a Complaint Involving Sexual Misconduct

Charges of sexual misconduct may be handled according to either informal (see Conflict Resolution) or formal procedures (see Judicial Procedures). A victim of sexual misconduct is

never required to engage in informal procedures, and informal procedures are never appropriate where sexual assault is involved. Regardless of whether or not options for resolution are pursued within the College system, it is important to note that discussing concerns with or seeking clarification or support from Beth Kotarski, Director of Health Services, Sharmaine LaMar, Title IX Coordinator, one of the deans, or others does not obligate a person to file a formal complaint initiating judicial procedures.

When a formal complaint is filed against a student of the College, the complaint should be filed in accordance with the Judicial Procedures outlined in another section of the Student Handbook. Complaints involving allegations of sexual misconduct will be referred first to the Title IX Coordinator for investigation.

F. Retaliation: Any student who files a complaint, or participates in a resolution process as a witness, has the right to freedom from intimidation and retaliation. Retaliation includes threats, intimidation, or reprisals. The College strictly prohibits retaliation by any student against a person who makes a report of sexual harassment or sexual misconduct, assists someone with a report, or participates in any aspect of the investigation or resolution of a report. Any violation of this non-retaliation policy will face serious judicial consequences.

ALCOHOL, DRUGS, AND PARTY POLICIES

Philosophy

The overarching priority of the College with respect to alcohol and drugs is to help ensure the safety and well-being of Swarthmore students. The College is committed to providing guidance so that students can learn to develop a responsible approach to social challenges, including whether to use alcohol, how to do so in moderation, and how to comply with local, state, and federal laws governing alcohol consumption.

Swarthmore students are considered adults, with the adult privileges of privacy and autonomy, as well as the responsibility for their own decisions and actions. In addition, the College also believes that everyone has the right to work and study in an environment free from the effects of substance abuse and that those individuals who abuse alcohol and other drugs are a danger to themselves and others.

Objectives

The objectives of these policies reflect the College's desire to create an intentional community based on principles of respect for oneself and others.

The alcohol policy has several objectives:

- to promote the safety and well-being of the Swarthmore community;
- to maintain a safe campus, where students can enjoy their social lives amid a comfortable and coercion-free atmosphere;
- to provide information about alcohol so that students make responsible, healthy choices;
- to provide confidential support for community members seeking treatment for alcohol and/or drug-related problems;
- to be in compliance with federal statutes, Pennsylvania laws, and Borough ordinances that regulate the consumption of alcohol.

Available Assistance for Abuse Problems

Students needing help responding to alcohol or drug problems are encouraged to speak with Tom Elverson, Alcohol and Drug Intervention Specialist; Health Center personnel; CAPS counselors; deans; and/or RAs. These professionals can help review the situation and make referrals to outside agencies or inside resources that respond to alcohol and drug abuse. Alcohol and drugs can interfere with academics, friendships, jobs, family, and, most importantly, one's health. They can create legal problems including warnings, citations, arrest, and jail.

Students worried about others with these problems are encouraged to contact the above-mentioned resources for counsel and support.

Regulation of Alcohol at Swarthmore

The presence of alcoholic beverages on campus is limited in two ways. First, it is limited by

federal, state, and borough laws, including those summarized below. Second, College rules specify the circumstances under which alcohol may legitimately be served on campus.

Local, State, and Federal Legal Sanctions

The Drug-Free Schools and Communities Act: In 1989 the federal government adopted the Drug-Free Schools and Communities Act. As a condition of receiving federal grants the College must certify that it is in compliance with this law. Among its provisions is a requirement that underage drinking must be seen not only as a violation of state law, but must also be explicitly against College policy and sanctioned under the College's judicial system.

Alcohol: Under Pennsylvania state law, a person less than 21 years of age may not purchase, consume, possess, or transport alcohol. Any person convicted of violating this law will have her/his driver's license suspended for 90 days. A second offense will result in a one-year suspension of driving privileges and a fine around \$500. Additionally, any person who intentionally provides alcohol to a person less than 21 years of age is guilty of a misdemeanor of the third degree, which carries a fine of at least \$1,000 for the first offense.

Pennsylvania state law allows a driver to be considered intoxicated, and charged with driving under the influence (DUI), if she/he has symptoms of intoxication and a blood/alcohol content (BAC) greater than .05%. A BAC of .05% can be obtained by consuming a little less than one drink per hour. A driver will be charged with DUI if her/his BAC exceeds .08%. Pennsylvania state law penalizes public drunkenness and defines it as: "A person is guilty of a summary offense if he/she appears in any public place manifestly under the influence of alcohol to the degree he/she may endanger himself/herself or other persons or property, or annoy persons in his/her vicinity." Swarthmore Borough police will enforce these laws on and off campus.

Drugs: Both federal and state laws impose sanctions for the possession, use, and distribution of illegal drugs. The sanctions for any given offense depend on the type and quantity of the drug involved and whether the offense is possession, use, or distribution. Under federal law, simple possession of a controlled substance carries a penalty of imprisonment for up to one year plus a minimum fine of \$1,000. If the controlled substance contains a cocaine base and the amount exceeds five grams, the first offender will be imprisoned for not less than five years and not more than twenty years, and fined. Also under federal law, any person 18 or more years old who distributes drugs to anyone under age 21 will be imprisoned or fined, or both, up to twice what is otherwise provided by law, with a minimum prison sentence of one year. This same penalty applies to any person who distributes or possesses with intent to distribute drugs to anyone within 1,000 feet of a college campus. Pennsylvania law imposes similarly strict sanctions on the unlawful use, possession and distribution of drugs. In addition to imposing fines and imprisonment for violation of its drug laws, Pennsylvania will seize all of the violator's property which was used in committing the crime.

College Disciplinary Sanctions

Violations of the Alcohol and Drug Policy

The following violations may result in disciplinary action, including warnings, fines, probation, suspension, or expulsion:

- the possession or consumption of alcoholic beverages by anyone under 21 on property owned, leased, or controlled by Swarthmore College
- the furnishing of alcoholic beverages to individuals under the age of 21
- the sale, possession, production, purchase, or use of any controlled substance or illegal drug on College premises or at College-sponsored activities
- abuse or illegal distribution of prescription medication
- violent acts against persons or property
- drunkenness and disorderly conduct
- driving under the influence
- the use of grain alcohol
- the violation of rules governing the permitted use of alcohol at College events

Note: sanctions may be assessed against individuals and organizations, as well as guests and their host.

Violations of the alcohol and drug policy regarding both individual behavior and party guidelines will be referred to the deans for adjudication. Reports from Public Safety or outside

police entities trigger a conversation with a dean and a referral to the Alcohol and Drug Intervention Specialist. If a student presents at Worth Health Center due to intoxication or drug use s/he will be referred to the Alcohol and Drug Intervention Specialist. Organizations may also be in violation of these policies.

Penalties will depend on the nature of the violation. First violation: at a minimum, a warning and referral to the Alcohol and Drug Intervention Specialist. Second violation: probation, and/or a requirement to attend an alcohol education program. Subsequent violations may lead to suspension, expulsion, and penalties imposed by outside authorities. Fines may be imposed for damage or clean-up.

Policy Regarding Permitted Use of Alcohol on Campus

Definitions and jurisdiction

These guidelines apply to every College social function, whether an All-College party or a private party, where alcoholic beverages are served, where ten or more people are present, where beer is served from a common source, and when students are likely to attend. A College social function may be held on or off campus and may be sponsored by students, faculty, and/or staff. All events held on campus are automatically subject to this policy. If held off campus, a social function becomes subject to this policy if either of the following conditions pertain:

1. College funds or funds from the Social Affairs Committee (SAC) of Student Council, or from any approved student organization, are used in whole or in part to sponsor the event. This includes expenses that are reimbursed at a later time.
2. The social function is advertised on campus in such a way as to invite student attendance. This includes oral, written, or electronic personal invitations to individual students.

Social functions are divided into the following three types:

1. All-College events

Individual students or student organizations may apply to the Social Affairs Committee (SAC) to obtain funds to sponsor an All-College party. SAC meets weekly to review party proposals and allocate funding. Check the SAC bulletin board in Parrish for more information on submitting party proposals. **Under no circumstances may any part of this funding be used to purchase alcoholic beverages.** There may not be a charge for All-College parties and they must be open to all members of the student body. It is customary to admit those with tri-college ID and personal guests with proper ID, but that is at the discretion of the hosts.

2. Private parties

Funding for private parties may not be obtained through the SAC. A fee may be charged for admission to a private party, but there must be no "cash bar" or direct charge for alcohol. In addition, items cannot be sold that will be directly related to the consumption of alcohol (i.e. cups, wristbands, etc.). There may be no advertising, either orally or in written form, for private parties. Individual invitations must be sent to all expected participants. The maximum number of invited guests, including a "bring a guest" clause, must not exceed one-third of the student body.

3. Fundraisers

Students holding an event to raise funds for a non-profit or an humanitarian cause, may advertise that donations are encouraged, but they must not serve as an entry fee to the event. Advertisements for the event may mention that it is a fundraiser.

Authorized campus locations and times

Students over the age of 21 are permitted to possess and consume alcohol in their own dormitory rooms without special approval, provided fewer than ten people are present, beer is not served from a keg, and there is no disorder. Other campus locations may be authorized by a member of the Student Life team.

Alcoholic beverages are specifically excluded at all athletic contests and other public events. Alcoholic beverages may not be served at parties or other events which take place during orientation periods, vacation periods, or final examination periods.

Space: Reservations for space are made by making a request via Events Management

System (EMS) on the College website. Use of facilities in residence halls must be approved by RAs in that building and so noted on the party permit. Paces and Olde Club must be reserved through their respective student directors. Information about the security deposit and cleanup will be discussed with persons planning an event at the time they reserve the facility.

Currently, **dry spaces** include the Black Cultural Center (BCC), Intercultural Center (IC), Mephisto's Lounge, the Women's Resource Center, and Upper Tarble.

Sharples Parties: Separate regulations are set out for the use of Sharples Dining Hall. See the Student Activities Coordinator for more information.

Duration: Social functions are expected to begin and end at a reasonable, specified time. In general, functions may not exceed 4 (four) hours in duration and should end no later than midnight Sunday through Wednesday and by 2:00 a.m. for Thursday through Saturday night events. Thursday parties lasting beyond midnight must be in non-residential party spaces. Undue noise or unwanted guests may nullify previous agreements.

Party Permits: After reserving space for a social function, one must register the function by obtaining a party permit from the Alcohol and Drug Intervention Specialist (or, if he is not available, the Coordinator of Student Activities) on the first floor of Parrish West. A party permit is required if: a) alcohol will be served and there are more than ten people, b) there is a keg, or c) the event will be held in Paces or Olde Club (regardless of alcohol being present or not). This permit must indicate the name of two responsible hosts who must be at least 21 years of age and one who has had host training. Party permits are due by 5:00 p.m. Tuesdays for a Thursday night event and by 12 noon on Wednesdays for functions over the weekend. A \$10 late fee will be incurred if a permit is submitted after 12 noon on Wednesdays. No party permits will be issued during New Student Orientation, vacation periods, or final exam periods. Detailed instructions for throwing an All-College or private party may be obtained from SAC or the Coordinator of Student Activities.

Advertising: Private parties for which a fee is charged may not be advertised on campus. These events are by invitation only. However, all SAC-funded events are required to be publicized on campus and must be open to all students. Generally, advertising is permitted for any event that is open to all students and free of charge. Advertising (posters, flyers, chalkings, table tents, email, written, and verbal invitations) for All-College social functions must NOT refer to availability of alcoholic beverages, either graphically or in words. If there is any question as to whether or not some form of advertising meets this criterion, it should be cleared in advance with a dean, the Alcohol and Drug Intervention Specialist, or the Coordinator of Student Activities. A \$50 fine will be imposed for any illegal advertising or inappropriate signs.

Host Responsibilities

By signing the Party Permit, the hosts agree to be responsible for compliance with these guidelines before, during, and following the event; they will be held accountable for any violations. Failure to obtain a permit and display it at the event will result in the illegal party being closed down. In addition, the Deans' Office will levy a fine of \$50 on each person in attendance at an unauthorized event and the hosts will be subject to further sanctions.

During the party

While the social function is in progress, or while alcoholic beverages are available (whichever is longer), the hosts must be in attendance at all times. It is ultimately the responsibility of the hosts to regulate the serving of alcoholic beverages and to observe all College guidelines regarding social events. While every effort will be made to provide Party Associates, in their absence, the hosts are responsible for fulfilling all responsibilities of the Party Associates.

The serving of alcoholic beverages must be controlled with responsibility to:

- a) refrain from serving alcoholic beverages to underage persons;
- b) prohibit non-tri-college persons, except authorized guests, from entering the party;
- c) prohibit visibly intoxicated persons from obtaining alcoholic beverages at the party.

It is the responsibility of the hosts to ensure that the following regulations are adhered to:

- 1. The party permit must be displayed clearly for the duration of the event.
- 2. ID checkers must be stationed at the doors to regulate entry into the party and to ensure

that alcoholic beverages are not carried out of the party.

3. A Swarthmore student is generally permitted to bring one non-College guest to a party; however, this is at the discretion of the hosts. The guest and the student responsible for the guest must sign in at the door. Bryn Mawr and Haverford students are usually welcome to Swarthmore events, must bring ID, but are not allowed to bring a guest. Faculty and staff are generally discouraged from attending student parties unless they are specifically invited by a student, or attendance is required for a job-related function.
4. Signs must be posted at all times during a party at which alcoholic beverages are served stating, ~~You~~ "You must be 21 years of age to consume alcoholic beverages in the Commonwealth of Pennsylvania."
5. At any social function where alcoholic beverages are served, alternative nonalcoholic beverages must be served at the same location with equal prominence. These alternative beverages will include drinks such as cider, sparkling grape juice, soda, or water that are appealing to a wide variety of tastes.
6. At any social function where alcoholic beverages are served, substantial food, such as fruits, vegetables, and/or pretzels must also be served.
7. If non-alcoholic beverages or food run out during the course of the party, alcoholic beverages may no longer be served.
8. There is to be no smoking at indoor parties.

If, in any event, the hosts are unable to uphold the guidelines and keep the party under control, they should call the Office of Public Safety at x8333. Public Safety will not normally enter registered parties where the permit is displayed unless documented complaints regarding the party are received.

After the party

Clean-up is the responsibility of the hosts or sponsoring organization and must be done immediately following the event. The person responsible for the facility may impose a charge for failure to comply with agreements about clean-up. In addition, hosts will be held responsible for any damages to the facility or equipment in that space.

Party Associates

A student-sponsored event with more than 25 people generally should be staffed by Party Associates (PAs) to help check IDs. Normally, parties with more than twenty-five guests will have at least one PA, and all-campus parties at Olde Club, the All-Campus Space in Tarble, Sharples Dining Hall, and fraternities will have several PAs, with the exact number to be determined by the PA Co-Coordinators. If PAs are not available for an event, the hosts must assume all PA duties in addition to their host responsibilities. Hosts are ultimately responsible for what happens during their event.

PAs will be selected and trained by the PA Co-Coordinators, and with the assistance and guidance of the Alcohol and Drug Intervention Specialist and Public Safety. PAs will wear their PA tee shirts, be paid an hourly fee, and they may NOT consume alcohol before or during the party.

Their duties will include:

1. door/ID-checking and crowd control;
2. refusing entry to visibly-intoxicated persons;
3. ensuring that party guidelines (party permits and required food and drink) are followed;
4. support hosts in enforcing non-smoking policies;
5. regulating alcohol that is brought into or taken out of the party (when allowed);
6. enforcing the end of parties;
7. alerting hosts to visibly-intoxicated students;
8. help obtain escorts for intoxicated persons to the Health Center or to their dorms;
9. contacting the Office of Public Safety if events get out of hand or in emergency situations.

Posting and Chalking Policies at Swarthmore

Postings: Advertisements, posters, flyers, etc. only may be posted on public bulletin boards.

Please do not post on or remove items from assigned boards in Parrish without permission from the group. Remove your outdated postings—you may remove other outdated postings from public boards. Please do NOT post anything on light posts, trash cans, buildings, walls, floors, doors, windows in doors, walkways, bike racks, hand rails, stairs, or trees. Recommended posting spots include the post office boards, bathroom stalls (not in the general room), dorm bulletin boards, Sharples boards and tabling, and Tarble boards. Tape should be masking or painter's tape—NO duct tape.

Postings need to be "signed" with an organization or individual name. No mention or images of alcohol are allowed. If postings do not conform to these rules they may be removed and the individual or group may be fined or held financially responsible for damage. These regulations are designed to keep areas safe for movement around campus and to prevent costly damage to campus walls and fixtures.

Chalkings: Chalkings, by their very nature, are meant to be impermanent. Chalkings are permitted only on paved, outdoor walkways that are open to the rain. Walkways under porches or archways may NOT be used. Vertical surfaces may NOT be used. Science Center outdoor blackboards are meant for dynamic use, being used while members of the community are present. Harassing, demeaning, uncivil expression, or threats of violence, whether anonymous or signed, may be washed away or removed from boards without notice.

Questions about particular chalkings or postings should be directed to the Student Activities Office. We encourage notifying Public Safety about planned chalkings to prevent misunderstandings.

RESIDENTIAL LIFE AND HOUSING REGULATIONS

Swarthmore's **housing philosophy** is based on the belief that residence hall living enhances education by contributing to an individual's academic, social, and personal development. If residence halls are to provide an environment for personal growth, residents must accept responsibility for their own actions and demonstrate respect for the rights and concerns of others and for the property of the College.

As within the Swarthmore College community, lives of residential students are to be governed by good taste and accepted practice rather than elaborate rules. To this end, students within each living unit are urged to develop informal guidelines for community living. Residence hall rooms are designed primarily for sleeping, studying, and storing the belongings on the part of the occupants.

General housing policies and regulations are established by the Deans' Office with student input and are administered by the resident assistant staff and the Deans' Office. Acceptance of space in College housing reflects a knowledge of and willingness to abide by housing policies. Living in College housing is a privilege and not a right. The Deans' Office may, at any time in its own discretion, withdraw this privilege due to behavior which does not rise to the standards set forth herein. Students who lose their housing privileges are not entitled to a refund of their room payments for the remaining weeks of the semester.

Room Assignments

New students are required to live on campus for at least their first two semesters. New transfer students are required to live on campus for at least their first semester. All new students are assigned roommates and dorms by the Deans' Office. Individual dorm and roommate requests are not granted for new students. An appropriate number of rooms are reserved for the entering class, and may not be available to returning students in the housing lottery. **Non-traditional age students** may be advised to seek non-College housing. **Family housing** is not available in College residence halls.

During the Spring semester, current juniors, sophomores, and first-year students select rooms for the following Fall. The housing lottery system is a seniority-based hierarchy – rising seniors are highest, followed by juniors, and then sophomores. Each student receives a lottery number, which dictates his or her priority status in lottery room selection. The College guarantees housing for all students who participate in the housing selection process in a timely manner. While most juniors and seniors live in single-type rooms, the College cannot guarantee singles for all juniors

and seniors. First-year and sophomore students are generally ineligible for singles.

Detailed information about dorm room assignments can be found online at www.swarthmore.edu/housing.xml.

Housing Eligibility: Eligibility for the **spring housing lottery** is based on an up-to-date College bill (paid in full each term by December 1 and April 1). Students who clear their accounts after the lottery are not guaranteed housing. No money will be accepted at room choosing. The Student Accounts Manager (Parrish W101), not the Deans' Office, makes decisions about financial matters. If you have questions about your account or need to make special arrangements, see the Student Accounts Manager early in this process. Also, all students must be in good standing with the College and satisfy any outstanding fees owed to the College prior to move-in day. Students with outstanding balances will not be able to move into their dorm rooms or collect their keys until the matter is resolved. Students who have used eight semesters of housing may need to seek non-College housing. They may sign up for the end of the waitlist and be assigned housing at the last minute.

Room Changes

Requests for room changes can be made by contacting the Housing Office. Making a room change request does not assure that a room change will be made. Students are expected to work through roommate and other housing conflicts with the involved parties, with the help of RAs, deans, and/or through mediation.

Prior approval from the Deans' Office is required of any student making a room change. Students who switch rooms without the consent of the Assistant Dean for Residential Life will be penalized \$100 and will NOT be permitted to participate in the next room choosing lottery. Phone numbers will not be changed within a room or unit after they are chosen at the lottery or assigned to new students.

Conditions of Occupancy

Students living in College housing agree to abide by the Housing Rules and Regulations as stated in the Student Handbook. Residents must accept responsibility for their own behavior and act in a manner which demonstrates respect for the rights and concerns of others and for the property of the College. Occupancy dates for the residence halls are noted in the College calendar. Seniors may stay through graduation, exact departure time to be announced. Students in residence halls when they are not authorized to be there are subject to fines.

A. Arrival and Departure Dates

Students may neither arrive early at the beginning of a semester nor remain in College housing beyond the announced closing date without special permission from the Deans' Office. This permission is rarely granted. A fine starting at \$100 is levied for infractions and individuals found to be in the residence halls without permission will be required to relocate.

B. Housing Fines

Any time you reserve a room through the housing lottery or waitlist system and do not end up using that room, a minimum fine of \$100 is assessed to your student account. Other fines are assigned as follows:

For Fall Semester: *If you select a room in the lottery and*

- 1) choose to live off-campus, but are still enrolled, you will be assessed
 - a. a \$500 penalty unless everyone in the space notifies the Residential Life Office by June 1 that they will not be occupying the room. Then, the fine will be \$100 each.
 - b. \$500 for each person moving off campus when notice is given between June 1 and week eight of classes.
 - c. no room refund when notice is given after week eight of classes.
- 2) take a Leave of Absence and notify the Deans' Office
 - a. by August 1, a \$100 penalty.
 - b. between August 1 and week eight of classes, a \$500 penalty.
 - c. after week eight of classes, there will be no room refund.

For Spring Semester: *If you select a room in the December lottery or already have a room from Fall Semester and*

- 1) choose to live off-campus, but are still enrolled, you will be assessed
 - a. \$250 unless everyone in the unit leaves this space and notifies the Residential Life Office by December 1.
 - b. \$500 each when notice is given between December 1 and week eight of classes.
 - c. no room refund when notice is given after week eight of classes.
- 2) take a Leave of Absence and notify the Deans' Office
 - a. by December 1, no penalty
 - b. between December 1 and January 5, \$100 penalty
 - c. between January 5 and week eight of classes, \$500 penalty
 - d. leave after week eight of classes, there will be no room refund

C. Meal Plan: Each student who resides in college housing is required to subscribe to the meal plan. The selection of your meal plan option is done through the Dining Services Office (Sharples Dining Hall).

D. Empty Beds: In all non-single rooms, if one or more assigned residents do not occupy the room, the Housing Office has the right to fill the empty space or to move the remaining roommate(s) to another comparable space. This will be done in consultation with the remaining occupant, who may state preferences about prospective roommates or a possible move to another room. If a student is unable to find a new roommate or preferred space, they will be consolidated into a room with another student of the Deans' Office choosing.

E. Cable & Internet: Cable access is provided to one TV set per building. Splicing into the line or installing a satellite dish is prohibited. Wireless network access is provided in all residence halls. The use of personal wireless access points is prohibited as they may interfere with the College-provided service.

F. Quiet Hours: Quiet hours are established by hall residents at the beginning of each term. Should there be a conflict between roommates about sleeping, socializing, and studying schedules, the students' sleeping schedules will generally take precedence over other room uses. It is understood that an occasional late night study session may need to take place in a dorm room. If a regular pattern of late-night studying develops and the roommate needs to get a regular amount of sleep, the studier will be asked to relocate to a more appropriate location (library, classroom, or dorm lounge).

Guests

Primarily, residence hall rooms are designed for sleeping and studying on the part of the occupants. Generally, Swarthmore students are welcome to have guests on campus. **Guests are defined** as college-aged students, family, non-Swarthmore friends, and prospective students. Individuals or groups contracted to perform specific functions at the College (e.g., performers, speakers) are not permitted to stay overnight in the residence halls. If a guest of a student will be staying in a residence hall overnight, the resident assistant must be notified, and all roommates must agree to any overnight stay. **A guest is not permitted to stay in a residence hall more than four nights each term.** Guests use residence hall resources and they add to a sense of crowding and noise. In no circumstances may guests sleep in lounges or other public places.

Residence halls are designed for our student population, and as such children, parents, and other non-college-aged adults should not be overnight guests. Requests for exceptions must be made to the Assistant Dean for Residential Life.

Before inviting a guest into the room, at any time of the day or night, the student must secure the **permission** of all roommates. If the roommate does not give permission, the inviter may not have the guest in the room. Usually roommates can agree about the presence and timing of guests. But, if no agreement can be reached, the basic principle is that the room is for study and sleeping by the assigned occupants. For health and safety reasons, Resident Assistants (RAs) should be notified about guests.

Hosts are responsible for the behavior of their guests and can be sanctioned if the guest breaks College policy.

Cots and inflatable mattresses are available for rent on a limited basis. To request a rental, please contact Claire Ennis in the Facilities and Services Department. These requests must be made at least 3 days in advance; linens are not provided.

More detailed housing rules and regulations are found in the Student Handbook and on the housing website at www.swarthmore.edu/housing.

Care of College Property

College furniture provided in residence hall rooms may not be removed or dismantled. With the limited storage areas in residence halls, there is no safe space to store unwanted room furniture. Public area furnishings are intended for general use and are not to be taken into private rooms. The Environmental Services or other staff will report infractions of this rule. The violation of these rules as well as noncompliance with the directive to restore furniture and equipment to its rightful place will result in a fine being levied against the student in question, with additional penalties assessed for continued noncompliance. Serious or repeated violations will also subject the student to suspension of her/his right to reside in College residence halls.

Personal beds—including water beds and mattresses—may not be added to the room unless specific permission is obtained ahead of arrival date from the Assistant Dean for Residential Life. For safety reasons, construction of lofts or walls in rooms is not permitted.

Rooms should be returned to their **pre-occupancy condition upon move-out**. Rooms will be examined subsequent to each student's departure and a fine will be levied if special attention must be given for cleaning beyond common procedures or for the removal of merchandise/additions in the room. If you wish to have your room inspected before you leave, contact your Environmental Services (EVS) technician or dorm supervisor. Fines are also levied if the staff must move furniture in or out of the room. Specific room inspections may be made at the discretion of the deans. Similar charges will accrue if students leave belongings in common spaces that must be removed by Facilities personnel. Typically those charges begin at \$50 per resident, and increase when extra cleaning of rooms is necessary. Room walls, floors, doors, and furniture may not be painted.

Vandalism Policy

Theft, or negligent or intentional damage to personal or College property is prohibited. Repair and replacement costs will be charged to the appropriate students, and may warrant College disciplinary action. In the event that damage or vandalism occurs in residence hall common space for which no one assumes responsibility, payment for damages will be divided equally among all residents of that hall. Administrative fees will be added if students do not pay the vandalism cost to the RA by the end of the semester.

Fire and Safety Rules

Fire drills are held on a regular basis. Directions for fire drill procedures are posted in every building. Hallways and stairwells must be kept clear of bicycles, trunks, and furniture, and may not be used for storage. Removal of student objects from halls, stairs, and other inappropriate places may involve cutting locks and fines.

Do not cover, hang things from, or otherwise disturb sprinklers, smoke detectors, or any other fire safety equipment. Damage or misuse of fire safety equipment will result in replacement costs plus a minimum \$500 fine. Continued violations of this policy will result in the loss of College housing privileges.

Prohibited Objects: The following are prohibited by fire regulations: cooking appliances (including coffee makers, hot plates, toaster ovens, or other items with open heat elements); space heaters; candles, incense, and other open flame items; and halogen lamps. Any student with an open flame (e.g., candle, incense) will be subject to a \$500 fine. The cooking facilities in residence halls are designed only for occasional snack use and not for regular meal preparation. Students are not permitted to cook in dormitory rooms or bring microwaves. Students may bring small refrigerators for their dorm rooms, but they must meet all College specifications (Energy Star Rated; no larger than 24" x 18" x 18"). Wastebaskets must be metal. Extreme care must be taken with irons, clothes steamers, curling irons, and other personal care devices. Electrical items using excessive wattage are prohibited. Extension cords must be Underwriter's Lab approved; outlet strips must have a built-in circuit breaker. No gas powered vehicles are permitted in the buildings.

Smoking: Smoking is prohibited in all College residence halls. Failure to abide by these limits may result in fines or removal from College housing. There is no smoking in common spaces in any building on campus. Altering smoke detectors creates danger for all residents and will be met with disciplinary action.

Pets: Pets of any kind are NOT allowed in dormitories. Keeping any pet within a dormitory

site is an offense against local Board of Health regulations, as well as an imposition on residents of that building and the EVS technicians. Fines will be levied against offenders in this regard and the pet(s) will be removed from College premises. A repeat offense will cause the student in question to forfeit her/his right to reside within College housing.

Keys and Locks

Security: The College takes precautions to protect your safety and well-being, but it also requires your full participation. For security reasons, rooms should be locked when unoccupied even for a brief period to avoid theft of personal property. Exterior entry doors should not be propped open. Public safety officers, Environmental Services staff, maintenance workers, and their supervisors, as well as resident assistants, have keys to all residence hall rooms and use them only in the course of fulfilling duties. In addition, any dean may enter and inspect a residence hall room without the resident's consent if there is reason to believe that any College regulation is being or has been violated.

Key Central is located in the Facilities and Services Building. It is generally open weekdays from 6:30 a.m. to 2:30 p.m. It may be contacted by e-mailing "locks" or by calling x5397 (KEYS) from a campus phone. From off campus, call (610) 690-5748. For security reasons, keys will only be issued to the person to whom they are assigned.

Lost Keys: Please notify Key Central immediately in writing (by email) about a lost key. A new key and the necessary paperwork will be prepared. You will be notified by email or telephone once the key is ready to be picked up. There is a minimum charge of \$50 per each lost key and the student's account will be billed accordingly. Roommates will not be charged, but they will have to come to Key Central to exchange keys if a lock is changed.

Found Keys: Found keys are to be sent to Key Central via college mail in order to promptly return them to the person to whom they were issued. For security reasons, the office will not divulge the identity of a key or its owner to anyone.

Returning Keys: At the end of the year, you should return your key to Key Central. If the office is not open, place the key(s) in the 24-hour key drop located directly at the top of the loading dock stairs of the Facilities Building. If you wish a key return receipt, you may get one during business hours at the Key Central window. Keys must be in the hands of Key Central by January 1 or June 5 in order to get credit for their return and avoid the \$50 fine. Keys returned after the due date are eligible for a \$20 credit against that fine. Should you elect to take a leave of absence or leave the College earlier than originally scheduled, all College keys become due and must be surrendered BEFORE leaving campus.

Room Changes: If you are changing rooms, you may only have 1 key in your possession. **YOU ARE NOT TO TRADE YOUR KEY(S) WITH OTHER PERSONS INVOLVED OR NOT INVOLVED WITH YOUR MOVE.** When you change rooms, Key Central automatically reassigns you a new key and flags the other key(s) as due. Keys are assigned to you and you only. You will be charged \$50 should the key not be returned promptly. Only College locks may be used on doors; personal locks will be removed and the owner will be charged for damages and labor.

Storage of Personal Belongings

1. **Dorm Storage:** Regular storage is provided in most residence halls. It is open at the beginning and end of each semester. Contact RAs for access to these spaces. Bedding, books, and small boxes are typical items stored here over the summer. During the school year suitcases, trunks and off-season clothes are stored here as space is available. **ALL ITEMS MUST BE BOXED AND LABELED. ALL ITEMS ARE STORED AT YOUR OWN RISK.** Empty boxes must be flattened and placed in the appropriate dumpsters. There is no access to these storage areas during winter and summer breaks. In an emergency, a student may apply to the Office of Public Safety in the Benjamin West House for admittance. With proper ID and for a fee of \$10, students will be admitted for 10 minutes when an officer is available.
2. **Secure Storage in Old Tarble** will be open at the beginning and end of semesters on a limited and announced basis. Students may store up to three items in this location during the summer break. Students going on leave may store up to three items for up to a year. **THERE IS NO ACCESS TO THIS STORAGE WHEN IT IS CLOSED.** All

items must be boxed and labeled with your name and class year. ALL ITEMS ARE STORED AT YOUR OWN RISK.

3. **Off-Campus Storage:** There are many locations off campus that offer students summer and winter break storage options. Students must work with these companies individually as they are not managed by the College.
4. **Prohibited Storage:** Furniture (rugs, chairs, sofas, tables, etc.), food items, and other large items may not be stored on College property. Limited storage space and fire regulations prohibit storage of such items. Violation of storage policies will result in removal of ~~illegal~~ items, and an accompanying charge. Musical instruments and refrigerators are not allowed in secured storage.
5. **Storage Clean-out:** Periodically, all storage rooms will be cleaned and inappropriate items removed. Graduating students may not leave items in storage after Commencement. Any items found in storage rooms that are out-of-date or labeled inappropriately will be considered ~~abandoned~~ and disposed of accordingly. The College reserves the right to dispose of any items in storage locations, without notice, if the storage rooms become a health or safety concern.
6. **Insurance:** The insurance program of the College is designed to provide protection for College property and does **not** include the property of students or other individuals. It is strongly advised that each student's insurance coverage be extended to include personal property and effects while at Swarthmore.

Off-Campus Housing

In keeping with Swarthmore's philosophy that ~~residence~~ hall life supports the College's academic mission," most students (approximately 94%) live in the residence halls. However, it is recognized that some students may prefer to live off campus, and, with the exception of new students, they are generally allowed to do so. Students planning to live off campus should be aware that the Borough of Swarthmore has an ordinance prohibiting more than 3 unrelated adults from living together.

Off-campus students may subscribe to the full meal plan or select a partial meal plan. Debit cards for use at the Dining Hall, Kohlberg coffee bar, Science Center coffee bar, and the Tarble snack bar may also be purchased by off-campus students. Contact Dining Services for additional information.

Tri-College Living

Arrangements have also been made with Haverford and Bryn Mawr Colleges to allow cross-campus living privileges. If you are interested in living at Bryn Mawr or Haverford, you should contact the Swarthmore Housing Office by the midpoint of the semester proceeding the semester in which you would like to exchange. You should be planning to take some classes at the college of residence.

Break and Summer Housing

Dorm Closings: There will be gaps in available housing at the end of each semester and the end of the summer housing term. The College will not allow students to stay in the residence halls during these gaps, nor store their belongings in dorm rooms. During these periods, the Facilities and Environmental Services staffs are busy making repairs, preparing the buildings for commencement, alumni weekend, summer programs, and returning students. THERE IS NO HOUSING AVAILABLE FROM THE COLLEGE between the closing of dorms in December and early January, or the end of the Spring term and the opening of summer housing, or the closing of summer housing and the opening of dorms in the Fall. Students must make arrangements for off-campus interim housing during these periods.

Summer Housing: The College, as a service for faculty and their student researchers, provides limited summer housing. First priority goes to students conducting research with faculty members. Second priority goes to students working in College offices and international students not returning home during the summer. Details, availability, cost, application, etc., are publicized after spring break by the Director of Summer Programs, Patricia Maloney (610-328-8355). This housing is offered and managed by Facilities and Services Summer Programs, and not by the Deans' Office. The Summer Program Office hires one RA for the building to act as a conduit of information with the office.

Students in this summer housing are not supervised by the regular College offices. There is a limited meal plan available. No access to the College's health and psychological services is available over the summer. There is only limited access to the library, information technology services, and athletic facilities.

CONFLICT RESOLUTION AND JUDICIAL PROCEDURES

Conflict Resolution

In an academic, residential community, great value is placed on the free exchange of ideas both inside and outside of the classroom. Swarthmore is a diverse community with the students coming from a variety of backgrounds and cultures. While this diversity enriches one's education by bringing together people with differing ideas and views, it is not unusual in such a community for students to find themselves in disagreement or conflict with others. Generally, clear communication, civil discourse, and reasoned argument between the students prevail to resolve these conflicts.

However, students may at times find themselves in conflicts with others that they cannot resolve alone. The Statement of Student Rights, Responsibilities, and Code of Conduct explains student behavior which is subject to formal adjudication through the formal judicial system. However, many conflicts between individuals can be resolved informally, often by enlisting the help of an impartial third party. It is important for students to understand that help is available if they are having difficulty with another student or if they feel they have been wronged by another student, staff, or faculty member. Student complaints or concerns should be directed to the responsible office according to the identity of the alleged offender: Deans' Office for students; Provost for faculty; and Human Resources for staff. Students should not hesitate to discuss the problem with a dean, an RA, the Gender Education Advisor, the Equal Opportunity Officer, or others who are trained and knowledgeable about conflict resolution options at Swarthmore. Discussing the problem with one or more of these individuals in no way commits a student to any particular course of action. There are many creative, informal methods of conflict resolution which may appeal to the student for resolving the problem. Mediation or discussion with deans can be good tools for conflict resolution. In certain situations the best approach may be to have a dean discuss the conflict with the parties involved. Often in these cases the students agree to a particular course of action other than initiating formal judicial procedures to resolve the conflict. This course of action can take a number of forms.

Equal Opportunity

Sharmaine Bradham LaMar, Equal Opportunity Officer/Title IX Coordinator, x5675

Swarthmore College's commitment to equal opportunity for all members of the community is expressed in the corporate statement adopted by the Board of Managers:

Swarthmore College is committed to the principle of equal opportunity for all qualified persons without discrimination against any person by reason of sex, race, color, age, religion, national origin, sexual orientation, gender identity or expression, disability, or any other legally protected status. In keeping with the long-standing traditions of the College and the spirit and letter of the federal and state equal opportunity laws, we affirm the standing policy of the College to realize equality of opportunity in education and employment; to guard against discrimination contrary to that aim; and to correct discriminatory behavior if found to exist within the College community. Consistent with maintaining an educational program of the highest quality, our standing policy includes affirmative efforts to achieve the above goals in employment and education. The above policy has been and shall be further implemented by the President and members of the faculty and administration designated by the president for that purpose.

The spirit of this declaration envisions a community in which diversity is not only tolerated but welcomed and viewed as a positive opportunity for learning and growth. In such a community, coercion and harassment are not tolerated, whether against the differences protected in the formal statement or against any difference of interests or life style where individual rights should be preserved.

Concerns about equal opportunity issues may be expressed in several ways. Informal consultations with the deans, the equal opportunity officer, or a College counselor may either lead to a resolution of issues in educational or student life areas, or suggest further steps to be followed. Specific complaints of harassment, intimidation, or other violations, whether verbal or physical, will be treated as serious matters. A fully developed grievance procedure for student equal opportunity concerns is also available for use when attempts at less formal resolution have not been successful. See the Equal Opportunity Grievance website at www.swarthmore.edu/eoo.xml.

All members of the Swarthmore College community are responsible for ensuring that the work and academic environment is free from discriminatory practices, including sexual and other discriminatory harassment. Living harmoniously in a residential college of Swarthmore's size, intensity, and diversity requires that each of us maintain the highest standards of respect for the individuality of all members of the community.

Judicial System

The formal judicial system at Swarthmore College has two main components: 1) adjudication by individual deans of minor infractions of College regulations; and 2) adjudication by the College Judiciary Committee of major infractions of College regulations. These formal procedures apply to adjudicating any violations of the Student Code of Conduct, or any rules, regulations or procedures of the College, by any current student of Swarthmore College. They are separate from the various informal methods of conflict resolution available such as facilitated discussion by a dean or other trained facilitators. It is important to remember that all possible avenues of conflict resolution be considered thoroughly when deciding upon a course of action.

The Associate Dean of Student Life supervises the judiciary system. Consultation with this dean or any other dean in no way obligates a student to file a formal complaint. Mediation or any other informal method of resolution is not a required step before proceeding with formal adjudication.

Safety of Campus: If either the President or the Dean decides at any point that the well-being of a student or of the College is at stake, an immediate active avoidance order, non-notational suspension, or campus expulsion may be imposed against a student who is suspected of violating the Student Code of Conduct, any rules, regulations, or procedures of the College, or otherwise poses a risk of safety to the campus, until the time a hearing is held and a decision is delivered by the College Judiciary Committee. This action assumes no determination of guilt, and the hearing will be held as soon as possible.

I. Minor Infractions: Adjudication by Deans

- A. **Scope:** Minor infractions of the College's rules and regulations, where a finding of guilt would result in a sanction less severe than suspension, are addressed by the deans. However, if this infraction is after the student has already been placed on probation, the student admits guilt, and it is a major violation, the adjudicating dean may suspend the student. The deans have the authority to require compensation for damages and may impose any sanction a dean deems appropriate short of suspension or expulsion, including, but not limited to, warnings, reprimands, fines and/or community service, restrictions, and probation. If, during the course of a Deans' adjudication meeting with the student, the Dean determines the incident being discussed is more serious than was originally believed, the meeting will be stopped immediately, and the incident referred to the College Judiciary Committee.
- B. **Complaints:** Complaints involving minor infractions may be initiated by Public Safety Reports, Police Reports, and/or through written statements by members of the community (faculty, staff, students).
- C. **Appeal:** A student may appeal a dean's finding of guilt involving a minor infraction to a panel of three members of the College Judiciary Committee within ten days of the written decision by filing a written appeal with the Deans' Office. The panel will then hold a hearing on the appeal. This panel may uphold or reverse a Deans' decision. If the Deans' decision is upheld by the panel, the sanction may be increased but not decreased. During the hearing of the appeal the hearing dean may be present as a resource, but will not take part in the deliberations of the appeals committee. Decisions made by the appeals committee are final. If there is a tie vote, the Deans' earlier finding

will stand.

- D. **Record Keeping:** In all cases of adjudication, whether by a dean or by the College Judiciary Committee, the deans will keep records of the violation(s) and of the sanction(s) imposed on a student. Sexual misconduct matters are reviewed by the Title IX coordinator at the College and may be further investigated.
- E. **Record Reporting:** Medical and law schools and some governmental agencies require disclosure by the College of any judicial findings. Students who transfer to other colleges or participate in off-campus study programs may also be required to provide such information. With a student's consent, Swarthmore reports out finding of probation, suspension, or expulsion. If a student withholds consent, that may be reported to the school or agency, or may have implications for the level of support Swarthmore provides in the application process. Generally, warnings and findings of not guilty are not reported.
- F. **Compliance:** Failure to abide by the decision of a dean or of the appeals committee is considered a serious offense and may result in further adjudication.

II. Major Infractions: The College Judiciary Committee

- A. **Scope:** The Dean or Associate Dean for Student Life shall determine whether a complaint represents a major infraction that should be heard by the College Judiciary Committee. They may consult a panel of three College Judiciary Committee members if there is a question about whether there are grounds for bringing a case forward. All formal charges of academic misconduct, assault, harassment, sexual misconduct, major damage, or interference with other students' educational programs are usually heard by the College Judiciary Committee. If the Associate Dean, in consultation with the Dean, determines that the events described in the complaint do not represent a serious violation of the Code of Conduct, the formal complaint shall be dismissed and other options for resolution will be discussed with the complainant.

B. Filing a Complaint

1. To initiate the judicial process, a written complaint must be completed by the complaining individual(s) and filed with the Associate Dean of Student Life. The complaint shall be a chronology stating as accurately as possible the date, time, and location of all events relevant to the charge(s). At the discretion of the deans, when appropriate, a written incident report from the Department of Public Safety may substitute for a written complaint. At the discretion of the deans, when appropriate, a written report from the Title IX coordinator involving allegations of sexual misconduct may substitute for a written complaint by a complainant. In the case of alleged academic dishonesty, the work in question, annotated by the complainant, shall serve as the complaint.
2. The accused student(s) shall be presented with the written complaint statement, and in turn may complete a similar statement **responding to the charges** and providing their chronology of the relevant events. This may also take the form of a conversation with a dean. From these statements, the Associate Dean shall **define the relevant charges**.
3. Complainants shall have the right to **withdraw complaints** at any time. In exceptional circumstances, based on the evidence available, the Dean may choose to continue judicial proceedings even if a complaint has been withdrawn or is absent.
4. Charges of sexual misconduct are first investigated by the Director of the Equal Opportunity Office/Title IX Coordinator, Sharmaine LaMar. The reported results of the investigation, and any response by the accused or complainant, are part of the evidence to be used at the CJC hearing.

C. College Judiciary Committee Pre-Hearing Procedures

The judicial procedures of Swarthmore College are administrative ones, and neither the College Judiciary Committee, the President, nor the Dean is bound to observe procedural or evidential rules required in a formal court of law. Hearings shall be based on the published rules at the time of the infraction.

1. **Confidentiality:** All persons involved in a College Judiciary Committee hearing

shall have the responsibility of preserving confidentiality before, during, and after the hearing. Any breach of confidentiality by a hearing participant, including the complainant or accused, shall constitute a violation of College policy and is an adjudicable offense. The complainant and accused may disclose information in order to: 1) consult with and/or obtain advice from her/his supporter; family or guardian; physician, therapist, or counselor; or 2) prepare her/his claim(s) and/or defense(s) for presentation to the Committee. A violation of the confidentiality provision by any person shall be deemed a waiver of any right to confidentiality to which the violator would otherwise have been entitled under this section.

2. The **complainant(s) and the accused shall have the following rights** in addition to any rights listed elsewhere in the description of student judicial procedures:
 - to have all incident reports, medical records, and testimony kept confidential to the extent that there is no interference with the normal procedures of the College;
 - to receive private and confidential treatment and be examined for personal injuries, sexually-transmissible diseases, and pregnancy, when appropriate;
 - to be made aware of the options available;
 - to have access to emotional and psychological support and advocacy;
 - to initiate legal proceedings outside the College;
 - to decide of which services to take advantage;
 - to answer only those questions relevant to the event in question;
 - the freedom from harassment, intimidation, and retaliation;
 - to have past sexual history excluded from the hearing process.
3. **Timing of the Hearing:** The hearing shall be held as expeditiously as possible while providing sufficient time for both sides to prepare for the hearing. An effort is made to schedule the hearing when the accused and complainant can reasonably attend. Supporter and witness schedules are considered, but their unavailability will not be the sole factor in selecting the timing of the hearing. Hearings are scheduled when classes are in session and not during college breaks. In the event that a complaint is filed during a break period or within the final week prior to a break, the Associate Dean in consultation with the Dean, will determine whether the hearing will be scheduled when classes resume or if the complaint should be referred to a dean or other appropriate office for more immediate adjudication.

Whenever possible, hearings will be scheduled so that five designated Committee members may be present. If at any time a hearing must be held but fewer than five current Committee members are available to participate, former members of the Committee shall be asked by the Observer to participate. If there are still fewer than five members, deans will be asked to participate to reach a quorum of five panel members.

In the case of a lengthy hearing, the Convener may take the option of breaking the hearing as needed and then reconvening it as soon as it is practical for all involved. Normally, a hearing session shall not exceed five hours. The accused and the complainant are not to interact while the hearing is recessed.
4. **Hearing Materials:** Both the accused and the complainant(s) shall be shown a copy of the materials that will be present in the hearing in sufficient time before the hearing (normally 48 hours in advance) to prepare their cases. Copies of these materials will be at the hearing for use during the hearing. Afterwards, they will be kept for 30 days in the case that there is an appeal and then these materials will be shredded. Each complainant and accused shall also be informed that any written statement submitted by him or her may be disclosed in advance of the hearing to the other party.
5. **The Charge Letter:** The Associate Dean or designee shall define the relevant charge(s). The charges are based on the published regulations in effect at the time of the infraction. The student charged shall meet with the Observer and be informed of the charge(s) and directed to a copy of the student judicial system procedures, generally three days in advance. The formal charge letter shall be presented in

writing including the names of the appointed panel, the time, date, and location of the hearing typically 24 hours in advance of the hearing.

6. **The Observer** will meet separately with both the complainant(s) and the accused to explain procedures and give all a chance to ask questions about the judicial process.
7. **Witnesses:** Prior to the hearing, both the accused student and the complainant must submit to the Observer a list of witnesses they plan to call at the hearing along with a brief statement describing to what aspects of the incident(s) in question each witness will be testifying. Written statements by the witnesses should be presented to the Observer 48 hours before the hearing. The Convener of the Panel, in consultation with the Observer, may decline to hear any and/or all witnesses if the testimony will be duplicative, irrelevant, prejudicial, or involves issues that would interfere with the fair adjudication of the hearing.

If a witness cannot or does not wish to attend the hearing, her/his signed statements may be included in the hearing materials and may be considered by the hearing Panel at the discretion of the Convener. The Committee will give greater weight to testimony given in person by a witness who can be questioned at the hearing.

Witnesses will be called individually to join the meeting as needed, but will not remain longer than their testimony and their fielding of questions. The Convener will determine the order of the witnesses.

Witnesses who fail to cooperate with investigations or hearings may be sanctioned. Witnesses do not have to reveal information harmful to themselves. However, truth and full disclosure is expected of all participants.

8. **Evidence:** A file containing relevant evidence for the case will be available in the Deans' Office for review by the parties (accused, complainant, Convener, Observer, panel members) involved, but it cannot be removed or photocopied. Copies of the file will be made available to the named parties at the hearing.

The hearing panel relies on written complaints, public safety and police reports, reports from the Title IX coordinator, written witness reports, individual statements, phone and computer records, video cameras, and ID card usage. Students may be queried by deans or public safety officers as part of the evidence gathering. Cooperation and honesty are expected, even if students are admitting guilt. These conversations are used in creating a charge. Statements made during the investigation by the accused generally are not shared at the hearing unless made public by the accused.

D. Attendance

To preserve privacy as much as possible, attendance at the hearings will be limited to the members of the Judiciary Committee, the Convener, the Observer, the complainant(s), the accused, one supporter each for both the accused and the accuser, if requested, and the witnesses as they are called. If the student charged with the offense refuses to appear at the judicial hearing, the Dean of Students may assess a penalty on the student for not appearing and the judicial hearing may proceed as scheduled without the student present.

- E. The **College Judiciary Committee** (CJC) consists of 5 or more faculty members (selected by the Committee on Faculty Procedures), 3 senior administrators (selected by the President), and 5 or more students (selected by the Student Council appointment's process). These committee members will receive appropriate training for their responsibilities, including training about College policies, judicial procedures, and precedents. Committee members who are no longer on the Committee, but have been trained, may be called to service if current members cannot attend a particular hearing.

The **Hearing Panel** consists of a Convener, two faculty members, one staff member, two students, and the Observer. Panels are selected based on schedule availability from the Committee.

Up to 24 hours before the hearing, the complainant and/or the accused student may challenge the participation of any member of the College Judiciary Committee on the grounds of prejudice or bias. Challenges must be submitted in writing or in person to

the Observer of the Committee, who shall rule on these challenges. It is expected that any member of the College Judiciary Committee who feels himself or herself to be biased will withdraw from the proceedings. If a panel member fails to attend the hearing, the complainant and accused may give permission to move forward.

The Dean of Students will serve as **Convener** unless unable to do so due to bias, previous direct involvement in the case under consideration, or schedule conflicts. If the Dean is unable to serve as Convener, she will appoint another dean from her staff to convene the hearing. If a dean is unable to convene the Hearing Panel for a given case, a faculty member on the College Judiciary Committee shall be appointed by the Dean to convene the hearing. The Convener of the Hearing Panel shall be present and participate in all hearings. During deliberations the Convener shall participate as needed, but shall not be part of the consensus or vote determining guilt or innocence except in the event of a tie vote, in which case the Convener will break the tie.

The **Observer** is the person responsible for seeing that the procedures are followed and that there is impartiality in the proceedings. The Observer does not speak at the hearing except concerning procedure and does not vote. Generally, this role is held by the Associate Dean for Student Life. If the Associate Dean is unable to serve as Observer, the Dean shall appoint another dean or CJC member to serve in this capacity.

Accuser and accused are present: Normally, all evidence presented at a hearing by either party shall be introduced in the presence of the other party.

If **more than one person** is accused, the Convener will generally hold separate hearings, but she retains the discretion to hold a joint hearing if the circumstances warrant and the participants consent.

If a student accused of misconduct **withdraws from the College** before a case is heard and the College therefore cannot go forward with the hearing, the student must go through the re-entry process coordinated by the Deans' Office and, except where the Dean in her sole discretion finds exceptional circumstances, the case must be heard prior to the student's readmission to the College.

A **supporter** must be a member of the Swarthmore College community, (a current student, faculty, or staff member). The supporter may be consulted by the student, but may not address the Committee. If the supporter is also a witness, she or he must submit written testimony to the Committee prior to the hearing.

F. College Judiciary Committee Hearing Procedures

In order to expedite a hearing, the Convener of the Committee, in consultation with Committee members, may take notice of **basic undisputed facts** without requiring testimony and may also limit the length of the statement and interrogation of all parties involved.

Opening & Closing Statements: Both the complainant and the accused shall have the right to make opening and closing statements with the complainant speaking first. These statements must be concise and the Convener may interrupt if they become repetitive.

Questions: Next both parties are questioned by the Panel. The Convener and the Observer shall also attempt to ensure that all questions are relevant to the specific case before the Committee and are asked in as fair and neutral a manner as possible. The complainant and the accused generally are not allowed to question each other during the hearing.

Witnesses are then called, one by one, and either party involved shall have the opportunity to question any witnesses after the Panel members have asked their questions of the witnesses.

Impact Statement: The complainant and the accused shall have the right to include an impact statement as part of the closing remarks. The accused may respond to the complainant's impact statement.

Exclusion of Evidence: The Convener has the discretion to exclude any questions, evidence, or witness, or any other material that is irrelevant, highly prejudicial, cumulative, privileged, or confidential, or otherwise would interfere with the fair adjudication of the hearing.

Decisions of the College Judiciary Committee will be made by consensus. In particularly difficult cases, or when it is impossible to reach a consensus, a vote may be taken to determine whether a student is guilty or not guilty. In the event of a tie vote, the Convener of the Committee will vote to break the tie.

The judicial body's determinations shall be made on the basis of whether it is more likely than not that the accused student has violated the Student Conduct Code or any rules, regulations, or policies of the College.

The issue of guilt or innocence shall be determined first. If there is a determination of guilt, the Panel will determine appropriate sanctions.

Previous Records: Records of previous adjudications of the accused student at the College are made available to the Hearing Panel only in the cases when a guilty verdict is achieved and shall be taken into consideration when the Hearing Panel determines appropriate sanctions. When considering sanctions, it is appropriate to consider precedents from earlier relevant cases decided by the Committee, using confidential records provided by the Deans' Office. Repercussions for violating the terms of the sanction may also be noted in the sanction.

Sanctions: The College Judiciary Committee has the authority to require compensation for damages and to impose whatever sanctions it deems appropriate, including but not limited to, warnings, reprimands including fines and/or community service, restrictions, active avoidance provisions, probation, suspension, and immediate and permanent expulsion from the College.

If **active avoidance** provisions are part of the sanctions, the deans shall meet with all parties to design strict procedures that will minimize the chances for interactions among the students involved, with special attention to the needs and rights of the student whose claims were supported by the decision of the College Judiciary Committee.

Grades are determined by the faculty member, although the Committee may make a recommendation based on the factors of the case and precedence.

Findings: When possible, the confidential findings of the Committee are communicated to the accused, alone and in person, immediately after the deliberations. If the case is one where the complainant is a student, she/he may also be told the outcome, alone and in person. Other types of complainants may be called or emailed with the results.

Non-Compliance: In general, refusal to abide by decisions of the College Judiciary Committee or the President on appeal is grounds for immediate suspension or expulsion as determined by the deans.

Obstruction of normal judicial procedures is a serious offense making a student liable to any penalty at the disposal of that Committee up to and including expulsion. Obstruction of judicial procedures covers not only disruptive events that occur within the hearing but also behavior before or after the hearing, including the intimidation of or retaliation directed toward any person involved in the case.

G. College Judiciary Committee Post-Hearing Procedures

1. **Appeals:** Either party may request an appeal in writing, addressed to the President, within ten days following the written decision by the College Judiciary Committee. The appeal shall be limited to considering new evidence or procedural error by the Hearing Panel. If the President decides that the appeal should be granted, she will appoint a new panel of three community members (typically a faculty member, a student, and a senior administrator) to hold a new hearing of the case. The President or her designee will serve as the Convener and she will appoint a new Observer. The decision of the appeal committee is final. The appeal panel may confirm the decision of the Hearing Panel, make a new finding, or reduce or increase the original sanctions. In exceptional circumstances, the President may dismiss the charges without further hearing if it is clear that the conduct alleged would not constitute a violation of the Student Code of Conduct or the College's rules, regulations, and policies. Hearing materials are kept for one month after the hearing.

in case there is an appeal. If an appeal is filed, the President may ask for the Convener and/or Observer to contribute additional statements concerning the hearing and events connected to the hearing.

2. **Written decisions:** the Convener writes and distributes the decision summaries soon after the hearing.
 - a. The accused receives a confidential **findings letter** noting the accusation(s), findings, and sanctions, including relevant details of the panel's reasoning, concerning their decisions. This letter is copied to the President and, in cases of sexual misconduct, to the Title IX coordinator.

Note: College policy dictates that parents of a student are notified when the student's status with the College is changed. The parents will receive the findings letter if the disciplinary sanction results in such a change (i.e. probation, suspension, or expulsion).

- b. A **public summary** of the case, excluding names and other specific references that would allow readers to identify who was involved, is sent to the complainant, the *Phoenix* and *Daily Gazette*, Public Safety, and is posted on the College Judiciary Committee bulletin board outside the Office of the Dean.

Note: In cases of appeal, the public notice is not posted until the appeal is resolved. Cases where the appeal is upheld are not generally posted. If there is a new hearing, the results of that hearing will be posted.

3. **Record Keeping:** In all cases of adjudication, whether by a dean or by the College Judiciary Committee, the deans will keep records of the violation(s) and of the sanction(s) imposed on a student. Sexual misconduct matters are reviewed by the Title IX coordinator at the College and may be further investigated.
4. **Record Reporting:** Medical and law schools and some governmental agencies require disclosure by the College of any judicial findings. Students who transfer to other colleges or participate in off-campus study programs may also be required to provide such information. With a student's consent, Swarthmore reports out finding of probation, suspension, or expulsion. If a student withholds consent, that may be reported to the school or agency, or may have implications for the level of support Swarthmore provides in the application process. Generally, warnings and findings of not guilty are not reported.