November 17, 2015

To Members of the Pomona College Community:

On behalf of the Title IX Working Group (see list of members and emails below), we invite the College community to comment on the proposed revisions of the Sexual Misconduct, Harassment, and Discrimination Policy and Procedures. The 30-day comment period will be open from November 17, 2015 through Thursday, December 17, 2015.

Please send your comments to the Title IX Working Group to TitleIXComments@pomona.edu. Your comments will be treated with discretion. Please note that all members of the Working Group will receive your comments. We ask that you be candid in your assessment of the proposed revisions and new policy additions, recognizing that any policy in this area has to balance the interests of many persons, including Complainants and Respondents.

In addition, the following community forums to discuss the proposed revisions will be held on the following dates and times. These forums will be hosted by members of the Title IX working group:

- Thursday, November 19, 2015, 4:15 pm, Community Forum (for students, faculty, and staff), SCC 208. This event will be hosted by all members of the Working Group.
- Monday, November 23, 2015, 7 pm, Student Forum, SCC 208. This is a student only forum, hosted by the student members of the Working Group.
- Wednesday, November 25, 2015 noon, Faculty Forum, Frank Blue Room. This is a faculty only forum, hosted by the faculty members of the Working Group.
- Tuesday, December 1, 2015, 9 pm, Student Forum, SCC 235. This is a student only forum, hosted by the student members of the Working Group.

Proposed Changes to the Sexual Misconduct, Discrimination and Harassment Policy and Procedures

We have posted this cover letter and proposed policy at www.pomona.edu/students/sexual-assault/title-ix-working-group. The existing policy may be found here.

While under the existing policy, the sexual misconduct policy section is one component of a broader Discrimination and Harassment Policy and Grievance Procedures, under the proposed revisions, we have separated out the Sexual Misconduct, Harassment, and Discrimination Policy and Procedures. Please know that the policies and procedures for other forms of discrimination and harassment remain, and will be reviewed and revised separately.

Background

On September 5, 2015, President David Oxtoby announced the formation of a Title IX Working Group. The Working Group had two primary goals:

1. What changes to the existing 2013 Policy are necessary to conform to applicable federal and state law?
2. What changes to the existing 2013 Policy should be made in order to adopt best practices for Pomona College?
Three principles informed the discussions of the Working Group:

A. Pomona College should provide its community with educational and support resources designed to prevent sexual misconduct among members of its community, and to provide support to survivors, and others involved in the process.

B. Pomona College’s procedures should be fair and equitable to all parties concerned, and able to be executed efficiently in order to adjudicate complaints in a prompt fashion.

C. Pomona College’s policy should include monitoring provisions to hold the College accountable for its policies and procedures. Further, the College should regularly determine whether and how policies should be changed in order to better satisfy the goal of gender equity.

The following summary highlights the significant changes to the policy proposed by the Working Group. It does not address all the changes. Its purpose is to provide members of the community with a strong sense of the proposed changes to the policy.

Refining the Role of the Title IX Coordinator (see pp. 12-14 of the proposed policy – page numbers refer to the page numbers listed on the document)
The United States Office of Civil Rights requires colleges and universities to designate at least one employee to serve as the Title IX Coordinator for the college. Dean Daren Mooko serves as the College’s Title IX Coordinator. As explained in the proposed revisions to the policy, the overriding purpose of Pomona College’s Title IX Coordinator is to “protect and promote gender equality.” Thus, the Title IX Coordinator is an advocate for the policies, processes and resources that address gender equality at Pomona; and not a specific advocate for Complainants, Respondents or the College.

The proposed policy includes a checklist of information, options, timeline, and resources that the Title IX Coordinator needs to review with the Complainant and the Respondent. While previously this information was largely conveyed verbally to each party by the Title IX Coordinator, the proposed revisions direct that the College provide each of them in writing as well as orally.

Increasing Access to Support for Parties Involved (see p. 14)
If the Complainant files a formal complaint against the Respondent, the Title IX Coordinator will appoint a Case Manager to assist the Complainant. A separate and different Case Manager will also be appointed for the Respondent if the complaint moves forward to investigation. These are new roles added in the proposed policy revisions. The Case Manager will be an individual, usually from Student Affairs, who has completed training in the College’s Title IX policies, investigations, and trauma-informed response. Case Managers will answer questions, provide support and have responsibility for helping to move the process forward in a prompt manner.

Strengthening the Integrity of the Adjudication Procedure (See pp. 24-29)
A major change in the proposed revisions is the elimination of the three-person hearing panel of persons and non-voting chair internal to the College. Under the current policy, the internal panel determines responsibility and makes recommendations for sanctions, which are then sent to the relevant vice president for the final determination of sanction; and appeals of either the determination of responsibility or the severity of sanctions are sent to the President. Under the new proposed policy revisions, a single external adjudicator will determine issues of responsibility and sanctions in the event of a hearing concerning a student Respondent. In addition, if a student Respondent takes responsibility, the External Adjudicator will determine sanctions. The external adjudicator will be drawn
from a pool of persons not affiliated with the College who have professional expertise in law or student conduct, as well as training in the dynamics of sexual misconduct, trauma-informed response, and the College’s policy and procedures. The College will pay the fees and expenses of the external adjudicator. The Title IX Working Group decided to adopt a single external adjudicator model for several reasons including:

- The external adjudicator will have professional expertise in conducting evidentiary hearings including how to run a hearing efficiently, fairly, and in accord with strict timelines.
- The external adjudicator is not an employee of the College; and therefore, concerns of a conflict of interest raised by some members of the College community have been minimized.

There is concern that the external adjudicators who are not part of the College may not understand life at a residential college. The Working Group concluded that the pool of external adjudicators was educable. External adjudicators will receive training by the College, including training in trauma-informed response and the dynamics of sexual misconduct. In addition, the Title IX Coordinator will work closely with the external adjudicator and be available to provide access to information about the College and life in a residential college generally.

Specific Provisions For Faculty and Staff Respondents Concerning Student Sexual Misconduct and Harassment Complaints (See pp. 30-31, 33-34)
Under the proposed revisions, the external adjudicator determines responsibility, but only recommends sanctions (rather than imposes them) if the respondent is a faculty or staff member. The proposed revisions then align with current policy for faculty and staff: following the determination, recommendations, and report of the external adjudicator (or if the respondent takes responsibility), the matter is sent to the relevant vice president (Dean of the College for faculty, and Vice President/Treasurer for staff) for the decision related to sanctions, as per our current policy. And, as in our current policy, appeals in these cases will continue to go to the President.

Creating Explicit Guidance Concerning Sanctions for Student Respondents (See pp. 27-29)
The proposed policy revisions set forth a detailed set of principles and criteria that should inform the external adjudicator’s decisions about sanctions. These include principles for the selection of the severity of sanctions based on a wide range of facts and circumstances that the parties may present to the external adjudicator following a finding of responsibility. Specifically, the proposed policy lays out the following guidelines:

- Expulsion is the expected sanction for any student who is determined to have committed sexual assault involving sexual penetration and force and/or incapacity.
- Any determination of responsibility for committing sexual assault involving sexual penetration without force or incapacitation may result in a sanction ranging from suspension of no less than one-year or the Complainant’s remaining tenure on campus (whichever is longer) to expulsion.
- Any determination of responsibility for committing sexual assault involving sexual contact may result in a sanction ranging from conduct probation up to expulsion.
- Any determination of responsibility for engaging in any other prohibited form of conduct may result in a sanction ranging from conduct warning to expulsion.

In addition, the proposed revisions explicitly outline additional factors for the external adjudicator to consider, and additional kinds of remediation that the external adjudicator can impose. The proposed revisions (see p.25) permit the Complainant to file an “impact” statement (describing the impact of the
Respondent’s conduct on the Complainant and expressing a preference about the sanction(s) to be imposed and permit the Respondent to file a “mitigation” statement (explaining circumstance or why a lesser sanction may be appropriate).

**Revising the Appeals Process in Cases Involving Student Respondents (See pp. 31-33)**
The Working Group also amended the appeals process in cases involving student respondents. While the basis for appeals remain limited to three criteria (improper hearing procedure, new evidence, disproportionality of sanction to violation), appeals will now go the Vice President for Student Affairs. As in the current policy, the appellate officer does not have the right to reweigh the evidence or make new factual findings.

**Clarifying Confidentiality (See p. 10; and FAQs 14-17 on pp. 44-45)**
The proposed revisions more explicitly outline the expectations of confidentiality during the process, and the limits to confidentiality following the process. The proposed revisions, along with accompanying FAQs, delineate the College’s commitment to make all reasonable efforts to maintain confidentiality, and make clear what the parties may share following resolution of a case.

**Promoting Continued Accountability**
The Working Group is discussing the creation of a standing student, faculty, and staff Advisory Committee to provide ongoing guidance and feedback to the Title IX Coordinator and the College about the implementation and clarity of the policy and procedures, and to monitor and periodically review the College’s education and prevention efforts, and adjudication processes.

**What’s Next?**
The Title IX Working Group will continue to meet this semester to discuss comments that come in, and participate in community forums. Revisions may be made to the policy based upon comments received. The Board of Trustees will be reviewing the revisions to the policy as well at their December 2015 meeting. Following the closure of the comment period and pending any additional revisions, the Board of Trustees will vote on the proposed changes to the policy.

Sincerely,
Joel Feuer, Trustee, PO ’76, Co-Chair
Sharon Goto, Professor of Psychology & Asian American Studies, Co-Chair

**Title IX Working Group**
**Trustees**
Joel Feuer PO ’76, Co-Chair (jfeuer1@gmail.com)
Meg Lodise PO ’85 (mlodise@trustlitigation.la)

**Students**
Orren Arad-Neeman PO ’16 (oan02012@MyMail.pomona.edu)
Anna Blachman PO ’16 (alb02012@MyMail.pomona.edu)
Sam Crawford PO ’16 (sac02012@MyMail.pomona.edu)
Khyle Dank Eastin PO ’16 (kde02012@MyMail.pomona.edu)
Sarah Hardimon PO ’16 (sdh02012@MyMail.pomona.edu)

**Faculty**
Professor Jessica Borelli, Psychology Department (Jessica.Borelli@pomona.edu)
Professor Tony Boston, Physical Education (Tony.Boston@pomona.edu)
Professor Donna M. Di Grazia, Faculty Executive Committee, Music Department
(dmd04747@pomona.edu)
Professor Sharon Goto, Psychology Department, Co-Chair (sgg04747@pomona.edu)
Professor David Meneefee-Libey, Faculty Executive Committee, Politics Department
(djml4747@pomona.edu)

Staff
Adriana di Bartolo, Director of the Queer Resource Center and Gender & Sexuality Resources
(Adriana.diBartolo@pomona.edu)
Miriam Feldblum, Vice President for Student Affairs and Dean of Students
(Miriam.Feldblum@pomona.edu)
Daren Mooko, College Title IX Coordinator and Associate Dean (drm04747@pomona.edu)
Tiombe Wallace, Consultant/Trainer, Student Advocates for Survivors of Sexual Assault
(tiombemft@hotmail.com)