

National Academies' Committee on Women in Science, Engineering, and Medicine

Report of Policies and Reporting Working Group

I. Charge to Policies and Reporting Working Group

The Working Group on Policies and Reporting was asked to review the National Academies' Committee on Women in Science, Engineering, and Medicine's proposals regarding internal policies and community-reporting practices on sexual harassment. In developing recommendations, the Working Group considered: The Committee's underlying findings; MIT's goal of eliminating sexual harassment at the Institute; MIT's current policies and practices relating to sexual harassment; MIT's current practices relating to community reporting; the relevant policies and practices of MIT's peer institutions; lessons learned from recent experiences at MIT; and MIT's efforts to modify the complaint resolution procedures for cases against faculty and staff.

The Working Group's charges, and the sections of this Report where each charge is addressed, are:

1. Review MIT's policies and recommend any enhancements to ensure they describe MIT's values and behavioral expectations and prohibit all the forms of sexual harassment identified in the Report, including gender harassment. *Response in Sections V-A, V-B*
2. Make recommendations on how the policies can be more clear, more consistent, and more transparent to MIT's community members. *Response in Sections V-A, VI*
3. Review the policies and recommend any enhancements on appropriate discipline and consequences for severe and/or frequent sexual misconduct. *Response in Sections IV and VI*
4. Review MIT's policies against retaliation and provide any recommended enhancements. *Response in Section V-C*
5. Review MIT's policies on sanctions taking close view to sanctions that might actually benefit the responsible party and measures to respond to a complainant's access to MIT's programs and activities. *Response in Sections IV and VI*
6. Make recommendations on enhancing MIT's policies to promote general civility and professionalism, in addition to forbidding sexual harassment. *Response in Section V-D*
7. Review informal reporting avenues for community members alleging sexual harassment and make any recommendations for enhancement. *Response in Section IV*

II. Composition of Policies and Reporting Working Group

The members of the Policies and Reporting Working Group are:

- Doreen Morris, Assistant Provost, *Co-Chair of Working Group*
- Marianna Pierce, Policy & Compliance Specialist, Human Resources, *Co-Chair of Working Group*
- Kelley Adams, Assistant Dean and Director, Violence Prevention and Response
- Byron Drury, Postdoctoral Associate, Physics
- Mary Markel Murphy, Senior Associate Dean, Office of the Vice Chancellor
- Kate Miller, Manager of Institutional Compliance, Risk Management & Compliance Services
- Sarah Rankin, Director and Title IX Coordinator, Title IX and Bias Response Office
- Allison Romantz, Counsel, Office of the General Counsel
- Lianne Shields, Director of Labor & Employee Relations, Human Resources
- Heather Williams, Assistant Dean, School of Science
- Rebecca Elizabeth Zubajlo, Graduate Student, Mechanical Engineering

III. Working Group's Process

The Policy and Reporting Working Group met 13 times as a full group. Professor Sheila Widnall joined the Working Group at its June 11 meeting. The Working Group discussed MIT's current policies, practices, and experiences in reporting and responding to allegations of sexual harassment. The Working Group created three subgroups to do in-depth reviews of policies on (1) sexual harassment (including gender harassment); (2) retaliation; and (3) civility.

Each subgroup reviewed MIT's existing policies and websites, and reviewed policies and websites from other institutions of higher education. The subgroups made recommendations of possible improvements to MIT's policies, practices, and resources. For some issues, the subgroups proposed alternative solutions. The draft recommendations from each subgroup were reviewed by the full Working Group at one or more of its meetings. The final recommendations of the subgroups are attached as Exhibits 1-3.

IV. Revisions to Complaint Policy

A review of MIT's Complaint policy, currently found in Policies & Procedures Section 9.8, has been ongoing for over a year, having started well before the NASEM report was issued. A significant revision to the complaint policy was approved by Academic Council in May 2019.

Under the revised complaint policy, the Title IX and Bias Response office will expand its scope to investigate formal complaints against faculty and staff that allege sexual harassment and gender discrimination, as well complaints of discrimination or harassment based on other protected classes. The expanded office, renamed the Institute Discrimination and Harassment Response office (IDHR), will be operational by the second semester of the current academic year. The IDHR office may also be involved in informal resolution of these kinds of complaints, as may other offices at the Institute (such as the local department, lab or center, central Human Resources, and the Ombuds office).

The revised complaint policy clarifies the informal complaint resolution process. It also revises the process for discipline or sanctions, which may include sanctions for severe or frequent sexual misconduct. Additional information on informal resolution and the ranges of discipline or sanctions (including sanctions particular to faculty) will be included on the IDHR's website. A communications campaign will be undertaken for the IDHR. This communications effort should heighten understanding of the resources and processes - current and new - for addressing sexual misconduct and gender harassment.

The Working Group discussed disclosure of the results of investigations, and in particular, whether the complainant should be informed of any sanctions taken against the respondent, and, in some cases, whether the results of a formal investigation should be disclosed to individuals other than the complainant and the respondent. In workplace investigations, MIT has generally not disclosed to the complainant any sanctions taken against the respondent, nor has MIT usually disclosed the results of an investigation more broadly. This stance has reflected a concern for the privacy of the parties and MIT's goal of restoring a productive working environment, particularly where both parties remain at work.

Under its revised complaint policy, MIT plans to disclose statistics about complaints of sexual harassment and discrimination made against faculty and staff members, similar to statistical reports already being made about student complaints. We view this statistical disclosure as an important step towards greater transparency about sexual harassment.

The possibility of disclosure of sanctions taken against a respondent to the complainant (and possibly to others) is a more complex question. Such disclosure presents a tension between concerns of privacy, restoring a productive working environment, and encouraging complainants to come forward to break what some term a "culture of silence." Also noteworthy is that MIT may now be obligated to notify federal agencies about certain violations of MIT's policies on sexual harassment or discrimination. That legal requirement may also affect future discussions about disclosure.

The Working Group recommends that MIT's policies on disclosure be reviewed again, as mentioned in Section VII-B, Next Steps – Longer Term Steps.

V. Recommendations of Changes to Policies

MIT's policies on sexual misconduct and sexual harassment for students are found in the Mind and Hand Book. The sexual harassment, sexual misconduct and gender-based harassment policies for the general community (students, faculty, staff and other members of the community) are located in Section 9 of Policies & Procedures, Relations and Responsibilities Within the MIT Community. Section 9 was extensively revised in December 2016. That revision included significant changes to the policies on sexual harassment, gender-based harassment,

personal conduct, and retaliation. In particular, that revision aligned the sexual harassment policy in P&P to that in the Mind and Hand Book, though with some differences.

The Working Group subgroups' recommendations on changes to policies, practices, and resources on sexual harassment, retaliation, and civility are attached as Exhibits 1, 2, and 3. Summaries of the key recommendations from those subgroup reports are as follows:

A. Revisions Affecting Multiple Policies

Current state: Some significant policy statements are currently included in the introduction to Policies & Procedures Section 9.0, Relations and Responsibilities Within the MIT Community. The introductory language includes such topics as what off-campus conduct is covered for employees, discipline, and academic freedom.

Some policies on sexual misconduct, harassment and related topics found in the Mind and Hand Book and in Policies & Procedures use the same language (verbatim), while the other policies use slightly different language. The P&P policies lack detail on the seriousness of consequences and on terminology often used in sexual harassment cases (e.g., “quid pro quo.”)

The Working Group recommends the following steps:

Differences between policies for students and faculty/staff: The policies in the Mind and Hand Book and Policies & Procedures on sexual misconduct, sexual harassment, and gender-based harassment should either be made the same or, where differences are worth retaining due to their different target audiences, the policies or accompanying websites should make clear which standards are the same and which are not.

Highlighting concepts now in introduction in Section 9.0 The Working Group found that some of the key concepts in the Introduction (Section 9.0) could easily be overlooked. It recommends that the key concepts in this introductory section be included in the policies on sexual harassment (and other conduct policies), either by links or by repeating the text. Moving this introductory language to its own section, and adding headers to the differing concepts in this introductory language, would also make these important concepts easier to find.

Seriousness of Consequences: The policies in P&P should stress that sanctions or discipline for violating sexual harassment policies can be serious. The language in the revised complaint policy in Section 9.8 should be reviewed to ensure this is clearly communicated, as should the statements about consequences in the Introduction to Section 9.0.

Examples: The sexual harassment policy includes some examples of possibly harassing behavior, and behavior that is likely not harassment. Other policies, such as non-retaliation and gender-based harassment, would be clearer if they included examples – whether in the policies themselves or in a website.

Glossary: A glossary should be developed for terms used in sexual harassment and related cases. The glossary would include definitions of terms like “quid pro quo” and “preponderance of the evidence.” This glossary might be included in a policy or might be in an accompanying website.

Overall: Some policy statements in Policies & Procedures would be strengthened if put in the active voice, rather than the passive voice.

B. Key recommendations regarding Sexual Harassment Policies *(See Exh. 1 for full recommendations on Sexual Harassment policy)*

Current state: Policies & Procedures Section 9.4.1 covers sexual harassment, sexual misconduct, and gender-based harassment. The 2016 revision attempted to make the language in P&P align with the language in the Mind and Hand Book, though with modifications to apply to non-student communities. There are, however, some parts of those policies that we recommend be changed or clarified.

One standard against sexual harassment: As mentioned, the Institute should make clear that the sexual harassment policy is the same for students, faculty and staff.

Clarify sexual misconduct policy: The current links about sexual misconduct from P&P Section 9.4.1 to the Title IX website have caused confusion, and at a minimum, the application of the sexual misconduct policies for faculty and staff should be clarified. The policy should also make clear that harassment may occur in any MIT program or activity, and that quid pro quo harassment may exist whether or not the person submits to the harassing behavior, and even if there is a time gap in reporting. These points could be included in the policy itself or in a website.

Expand policy on gender harassment: MIT’s policy on gender-based harassment (P&P Sec. 9.4.1.3) should be amplified, possibly incorporating the definition in the NASEM report: “Verbal and nonverbal behaviors that convey hostility, objectification, exclusion, or second-class status about members of one gender.” In addition, examples of gender harassment, such as gender-based stereotyping (e.g., traditional notions of “masculinity” or “femininity”) should be included in the policy or in a website. We note that the Mind and Hand Book’s reference to gender harassment should be updated to refer to P&P Section 9.4.1.3.

Revamp reporting tools: Make reporting tools sensitive to use by complainants in differing circumstances. For example, a victim of a sexual assault should not be asked whether they have taken measures to address the issue, while such a question may be appropriate in another type of complaint.

C. Key Recommendations regarding Retaliation Policy (See Exh. 2 for full recommendations on Retaliation policy)

Current state: Both the Mind and Hand Book and Policies & Procedures contain retaliation policies. The wording in the two policies differs somewhat, and the Mind and Hand Book Section II (22) contains examples of retaliation while P&P section 9.7 does not contain examples.

Making policy the same for students and faculty/staff: We recommend that the retaliation policies in the Mind and Hand Book and in P&P be made the same although, if examples are included, they might differ in the two manuals for their particular constituencies. Examples of protective measures for various groups might be included on a website.

Change name of policy: Change name of policy from “Retaliation” to “Non-retaliation.”

Clarify “adverse action”: The P&P policy should provide examples or clarification of what constitutes a retaliatory “adverse action.”

Refer to third party retaliation: Add to the policy that retaliation through a third party is also prohibited.

D. Key Recommendations regarding Civility Policy (See Exh. 3 for full recommendations on Civility policy)

Current state: Section 9.1 of Policies & Procedures contains standards of conduct that apply to the entire MIT community including the statement that: “All members of the MIT community are expected to conduct themselves with professionalism, personal integrity, and respect for the rights, differences and dignity of others.”

Strengthen current policy in P&P on personal conduct: The Working Group recommends highlighting and strengthening the existing language in P&P Section 9.1 on personal conduct, but not creating a new policy on “civility.” The concept of “civility” may be viewed as ambiguous while the policy’s current wording on “professionalism, personal integrity, and respect for the rights, differences and dignity of others” appropriately focuses on specific elements of civility. There may also be gendered differences in notions of civility; for example, a challenging tone may be viewed as “uncivil” from a woman but not from a man. We therefore recommend avoiding the term “civility.”

Changes that would strengthen the policy on personal conduct include:

- Changing the title of the current policy “Personal Conduct and Responsibilities towards Students and Employees” to simply “Personal Conduct”
- Adding examples of unacceptable behavior that might violate the personal conduct policy but does not rise to the level of harassment, possibly on a website
- Stressing that unprofessional or disrespectful conduct can escalate to harassment or discrimination, and so needs to be addressed

Posters about Personal Conduct: The Working Group recommends creating posters on MIT's policy on personal conduct, suitable for display in labs, offices, and elsewhere.

VI. Overall Transparency of Policies on Sexual Harassment and Gender Harassment

MIT's policies on sexual and gender harassment are easily accessible on the web – in P&P, the Mind and Hand Book, and the Title IX website. We realize that many users access policies through narrow web-based searches. These searches should lead directly to the appropriate subsection, but sometimes the user may not see the preceding or following policy sections that provide context. Repetition of text and cross linking can help give the user a more complete understanding of the policy.

The Title IX website contains the relevant sexual misconduct policies, and other helpful information including reporting options for students and for faculty and staff, training materials, and annual reports. This website is being revised to reflect the greater scope of the IDHR office in addressing sexual harassment and other allegations against faculty and staff. The new website will provide a less formal access point to the policies on sexual harassment and gender discrimination, with links to resources at MIT.

In addition, the Title IX and Bias Response office has made significant outreach about sexual misconduct through posters, flow charts, and handouts as well as on its website. Finally, training efforts from the Title IX office, Human Resources, and the OGC all address the sexual harassment policies, websites and resources, though more training, particularly for directors and leaders, on how to respond to allegations of harassment and discrimination is needed.

The subcommittee on sexual harassment recommends increasing the transparency of reporting about sexual harassment complaints against faculty and staff, similar to the Title IX office's report on students. As noted, in the future, the IDHR office will produce annual reports on sexual harassment complaints raised against faculty, staff, and other non-student members of the MIT community. We also urge the Institute to consider a survey (whether a separate survey or incorporated into an existing survey) on sexual and gender harassment for faculty and staff, and to report the survey results to the community.

As mentioned above, we also recommend steps like posters to enhance awareness of MIT's personal conduct policies.

The issue of disclosure of the results of investigations is discussed in Sections IV and VII-B.

VII. Next Steps

Some of the recommended policy changes can be considered and, hopefully, adopted in the short term while one may be a longer-term project:

A. Short Term Steps

Recommended short term steps are:

- The revision to the introduction to Section 9 (and cross references to its content)
- Some changes to the retaliation policy
- Some changes to the policy on personal conduct
- Changes to the sexual harassment policy (including clarifying one policy standard for all, and clearer references to definitions of sexual misconduct)
- Enhanced tools (e.g., complaint form, posters on personal conduct policy)

If some or all of these policy changes are pursued, we recommend that the usual process for revisions to employment policies in Policies & Procedures be followed, with the leadership of Human Resources and the Provost's Office, and the involvement of the Office of the General Counsel and IDHR. This process would also include input from faculty and from other HR and student services staff. Substantive changes to policies in P&P would, of course, be presented to Academic Council for approval.

B. Longer Term Steps

As noted, the Working Group discussed disclosure to the complainant of sanctions taken against a faculty or staff respondent following a formal investigation, and disclosure of the results of formal investigations to a wider group of interested persons. Disclosure raises competing values of transparency and privacy, as well as possible implications for the working or educational environments of complainants, respondents, colleagues, and bystanders – both in the context of the particular complaint and more broadly. A specific consideration is the effect that disclosure of specific sanctions might have potential complainants: would disclosure encourage or discourage reporting? We recommend that a group be formed to consider the issues of disclosure of violations of MIT's policies on harassment and discrimination based on sex, gender, and other protected classes in the workplace setting.

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