

Report of Historical Allegations of Sexual Abuse & Misconduct

The Emma Willard School

Chronology of Reported Conduct from 1950s to 2010s

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I. Introduction

In June 2016, the Emma Willard School engaged Gina Maisto Smith and Leslie M. Gomez, currently of Cozen O'Connor, to conduct an external and objective investigation of historical allegations of abuse throughout the School's history.¹ The focus of the investigation was to understand individual experiences of former students and alumnae to understand the context of the reported conduct, to evaluate whether the School knew or should have known about the conduct, and if so, to assess the School's response in light of child protective services, criminal laws and standards of care at the time of the conduct. As Lisa Lefort '72, the Chair of the Board, wrote to the community on July 8, 2016, "We will all find out what was done right, and what was done wrong."

This report provides an overview of our engagement and investigative process; the chronological account of the facts gathered in our investigation, grouped by decade; an overview of the dynamics of child abuse and the relevant legal framework; and our findings and conclusions about the School's response. At the outset of the investigation, the School and the Board of Trustees asked us to share our findings and conclusions directly with the Emma Willard community. Consistent with that charge, the factual findings presented in this report have not been altered or redacted by the School or the Board of Trustees.

Over the past ten months, we have been actively engaged in seeking the accounts of alumnae, former students, and administrators. More than 75 Emma Willard community members candidly shared their individual experiences. We received many first person accounts of sexual abuse, assault or inappropriate sexual relationships involving School employees. We received far more third-party reports of suspected sexual abuse, assault or inappropriate sexual relationships. We have been humbled by the response of the Emma Willard community, and the degree of candor and detail individuals have been willing to share with us. That candor has come from complainants, witnesses, administrators and individuals identified as perpetrators of abuse.²

In some instances, based on the nature and quality of the information as reported to us, we were able to reach a level of confidence that the underlying conduct occurred as reported. As outlined in greater detail in this report, in those instances, based on the synthesis of the information gathered in our investigation, we included the name of the respondent in this report. We provided this report to the Board for their review and determination regarding the public release of the report and the information contained therein. In other instances, we were unable to substantiate the third-party report, and in yet other instances, based on the School's contemporaneous investigation or a law enforcement investigation, the reported conduct was

¹ In February 2017, Ms. Smith and Ms. Gomez created the Institutional Response Group at Cozen O'Connor. The Emma Willard School maintained the engagement with Ms. Smith and Ms. Gomez at Cozen O'Connor. For more information about the background and qualifications of Ms. Smith and Ms. Gomez, please see Appendix I.

² We recognize that individuals may choose to self-identify as victims or survivors. For consistency, and in keeping with our standard practice, we use the term complainant to refer to an individual who experiences or reports experiencing abuse, assault or misconduct. Similarly, we use the term respondent to refer to an individual who is reported to have committed abuse, assault or misconduct, whether or not that person was contemporaneously notified of the report against them, whether or not that person ever responded to the information about them, and whether or not that person committed the conduct in question.

unfounded. Nevertheless, as the focus is on the School's response to reported conduct, we have incorporated *all* reported conduct in this report. In those instances where we were unable to substantiate the conduct or the conduct was unfounded (through the School's internal investigation or by law enforcement), we have taken steps to protect the anonymity of all parties. In those instances where the conduct was not substantiated, we recognize that additional information may come to light after the publication of this report, including first-person narratives by the complainants in those matters, which may support a finding that the conduct occurred as reported.

This report presents a sobering account of alumnae experiences. We caution readers that the volume of reports, combined with the level of detail shared in this report, may be difficult to absorb. We received reports about inappropriate conduct from as long ago as the 1950s to as recently as the 2015-2016 academic year. Together, those accounts – and the available information in School files and records – have created a collective narrative of one School's evolution in institutional responses over the past 60 years – an evolution that largely mirrors the evolution of the legal framework, of societal understanding of child abuse within secondary schools, and the changing standards of care in the protection of minors.

During our review, the Head of School, senior administrators, the Chair of the Board and the Board of Trustees have articulated, and repeatedly reinforced, their commitment to the open and transparent sharing of the information we have gathered in our review. We recognize the power of sunlight in bringing conduct from the shadows into stark focus for a community. Current and former administrators and faculty members of the School have participated voluntarily in our review and we have had unfettered access to personnel records and available documents. No request of ours has been denied and the scope of our review has not been restricted in any way. In addition, our investigation, and the findings and conclusions in this report, have not been influenced or directed in any way by the School.

II. Scope of the Engagement

A. Overview

Our review encompassed conduct from the late 1950s through the 2015-2016 academic year.³ The reported conduct included verbal remarks and harassment; physical touching; sexual harassment; grooming and boundary violations; consensual, albeit inappropriate, sexual relationships; and, sexual assault or rape. We included in this report a summary of all reported conduct, even where that conduct was unfounded by School or law enforcement investigation, or the conduct would not have been criminal in nature based on the reported allegations (e.g., harassment only) or the fact that the parties were of the legal age of consent.

We began this review with a commitment to open-ended exploration of the issues, the independence to “call it as we see it,” and a mindset designed to follow the facts where they led. Our approach includes “flipping the lens” in order to listen with an earnest intent to hear and understand the accounts and context of all those who participated in our review without judgment or skepticism. We understand how important it is to understand an individual’s context, the relevant time frame and era, and the importance of perspective to develop a nuanced understanding of actions and conduct. Given the vast span of time covered in this review – more than 60 years – we also sought to receive the information through an accurate, rather than anachronistic, lens based on the unique characteristics of different historical periods.

B. The Fact-Gathering Process

We received information from a wide range of sources: interviews of alumnae, current and former faculty members, administrators and houseparents, and parents; submissions to an online forum created for this review; telephone calls; email submissions; review of relevant student and personnel files; review of head of school files; and information available in student and faculty handbooks and the Archives. It is difficult to quantify the sheer volume of written materials we reviewed. The School has maintained all student and personnel files, including voluminous files for each head of school and rich documentary resources in the School’s Archives. In addition to significant efforts by School administrators to identify and locate relevant information, members of our firm spent many days on campus combing through School records.

To date, we have conducted more than 75 interviews. Our interviews included all but two of the former Heads of School since 1961 (Robert Parker, who is deceased, and Philip Deely, who declined to speak with us). In addition, we spoke with many other former members of the senior administrative team (Dean of Students, Dean of Faculty, and Associate Heads). We also received more than 60 online submissions, approximately 30 of which contained substantive content.

We first sought to hear from individuals who contacted us proactively. Through those initial interviews, we identified the need to pursue additional information, as well as documents that might inform our understanding of the School’s response through contemporaneous records. We

³ This review incorporates information gathered in 2015 following an earlier engagement by the School and Board of Trustees initiated in December 2014. For a history of our prior engagement, and the initiation of this review, please see Appendix II.

understand that the choice to participate in a review of this nature is a deeply personal and individual decision, and that not all affected community members may be aware of the review, or comfortable in volunteering to participate.

In July 2016, we hosted a webinar for alumnae and interested community members to invite community members to meet us, to better understand our process, to pose questions to the investigators, and to encourage participation in the review. During the webinar, we provided direct information about the nature of the review, our prior engagement with the School, and our background and qualifications.

To increase participation by community members, we created a webpage where individuals could submit information anonymously, or with contact information included. Many individuals chose to submit contact information with their comments, and we made outreach in response to every submission where contact information was available to gather additional information and context.

Through rigorous reconciliation and synthesis of interview memos, student and personnel files and School records, we created a list of potential complainants, respondents and administrators who we believed may have relevant information. We sought to locate and contact as many of those individuals as possible. In some instances, because of the passage of time, the individuals were not locatable or deceased. We made outreach to nearly 50 additional individuals who did not respond to our outreach or declined to participate. We also asked the School to provide periodic updates to the alumnae community, and to the faculty and staff, in the hopes that it might spur additional individuals to come forward.

We began each interview with a detailed explanation of our role, our process, and how the information we gathered would be shared. We provided the opportunity for each interviewee to ask questions, and informed the interviewees that they could contact us to follow up if they had questions or additional information to share. Some interviewees took advantage of the opportunity to do so. Many interviewees connected us to other alumnae and encouraged their participation in the review.⁴

Ultimately, we sought to gather as much information – and underlying context – as possible in order to evaluate the institutional response. We ran every report we received to ground to the extent of our ability to do so and, at the conclusion of the fact-gathering, we shared a list of all reported allegations with the Troy Police Department, as set forth below.

After sharing a summary of the information we gathered with law enforcement, we attempted to contact the respondents identified in our review. We sought current contact information through School records, public databases and internet searches. Tracked correspondence was sent to the last known address and telephone calls made to the last known contact number. We were unable to locate current contact information for some of the respondents. In addition, at least seven of

⁴ For example, we spoke with three alumnae from 1974, 1996, and 1999, each of whom had collected accounts from many alumnae. The sharing of information by these alumnae, as well as their encouragement of other alumnae to come forward, contributed to the success of our fact-gathering. We are grateful for their participation in our review and their willingness to engage in this process.

the respondents are now deceased. In total, we interviewed or had contact with eight respondents, some of whom declined to participate in our review.

C. Report to Law Enforcement

Consistent with our understanding of the dynamics of child sexual abuse and the need to collaborate closely with law enforcement in effective responses, we worked with the School to report all known conduct to the Troy Police Department. In May 2015, we shared an overview of the conduct from the two allegations from the 1970s.

In February 2017, we again contacted the Troy Police Department to share a summary of all reported information gathered in our review. We explained the purpose of our outreach as follows:

This past spring, Emma Willard asked us to expand our review to evaluate all historical allegations of abuse. That conduct spans from the 1950s to as recently as a report of abuse last year (which was already reported to Troy PD). We have been engaged in direct community outreach and speaking with former students, alumnae and staff over the course of the summer, fall and winter. We are nearing the conclusion of our review, and consistent with our former process, want to share with you summary information of the allegations we have identified through our review. It is our expectation that many of the incidents may be beyond the statute of limitations, but recognize that is a law enforcement determination to make, not ours. We also expect that some of the conduct may not be criminal in nature given the age of the complainant at the time (17 or older), but again, defer to your judgment on those issues, so will err on sending you reports that may not be criminal.

I would appreciate the opportunity to speak with you directly about our review and the purposes of sharing these reports with law enforcement. Emma Willard is committed to the protection of minors and promoting safety for their students and others. To the extent that any of these identified individuals continued the reported conduct after they left Emma Willard, or they are in a position where they still have access to minors, we thought it important to ensure that you had access to the information. As part of our review, we committed to the community, and shared with every individual we spoke with, that we would be sharing information gathered with law enforcement.

In March 2017, we provided the Troy Police Department with a written summary of all reported information we had received. The Troy Police Department reviewed available records in their records management system to determine whether there were any other reported incidents or prior investigations regarding the same individuals (complainant or respondent). The Troy Police Department also confirmed that the majority of the conduct reported was beyond the statute of limitations or was not, as reported, criminal in nature (based on the conduct alleged or the age of consent of the parties). This was an important determination for our review, as it was important that any steps we took to contact individuals named as respondents would not interfere with the integrity of any potential law enforcement activity. We are grateful for the prompt and

collaborative response by the Troy Police Department, and for their continued willingness to partner with the School to maintain a safe campus for students.

D. Nature of Information Received

We received a wide range of information from both first person and third-party accounts. In some instances, the information was specific, detailed and provided identifying information about the individuals involved. In many of those instances, we were able to interview the affected alumnae directly, which gave us great context and informed our understanding of the reported conduct.

We sought to contact every alumna who had been identified to us as a complainant. We were humbled by the many alumnae who chose to share their first person accounts with us. Those accounts, painful as they were for many to recount, were vital to our understanding of the reported conduct, the context, and the School's response. In many instances, in response to our outreach, individual alumna confirmed and corroborated third-party reports. In other instances, when we contacted a potential complainant based on a third-party report, individual alumnae clarified that no abuse or inappropriate behavior had occurred, or that the information recounted by the third-party witness was not accurate. Other alumnae who were identified as potential complainants declined to participate in our review. In some instances, we were informed that the alumna did not want to be contacted, and we respected that directive. We respect and understand the importance of agency and autonomy of a complainant, and we do not question or judge a decision by an alumna to not speak about deeply personal matters.

Many of the current allegations are decades old and witnesses who may have been able to provide information are deceased, unavailable or have imperfect memories given the passage of time. The review was further complicated by the fact that, in some instances, overt sexual behavior was not alleged; rather, many of the reports we received about educators were about potential "grooming" behaviors. Grooming behaviors, as described in more detail in the appendix, include behaviors of an adult that may cross emotional or physical boundaries with a minor in order to build trust, to facilitate access to the minor, to shape the minor's perception of the conduct, and discourage reporting. The majority of the reported conduct, while inappropriate given the role of an educator in a residential secondary institution, was not criminal in nature, either because it did not involve physical or sexual assault, or because the student was over the legal age of consent at the time of the conduct. In a number of instances, the complainant was no longer a student at the time of the conduct, although we received significant reports of grooming occurring prior to the student's graduation.

Some of the information that we received was anonymous, or amorphous at best – for example, a third-party report that a teacher may have engaged in an inappropriate relationship with an unidentified student. We encouraged the sharing of suspected misconduct, and in some instances, we were able to connect accounts from various individuals in a cohesive manner. In other instances, we were not able to fully investigate the suspected conduct given the limited information shared with us. Nonetheless, we have included a summary of all reports received in this report to ensure that the information that was shared with us was transparently shared with the Emma Willard community. We caution the community to receive the information with a

nuanced understanding of the differences in the quality and caliber of information received as part of this review.

We note that some of the information shared with us could be fairly classified as rumor or speculation. While we received this information as part of the review, we have not made factual findings or reached conclusions based on information we could neither corroborate nor refute. As an example, many alumnae told us that they believed that an employee was married to a former student, an unsubstantiated belief that colored students' perception of the employee. Based on our review, we learned that this was false, that the marriage was between two consenting adults of similar age who met outside of the Emma Willard community and that employee's wife was never an Emma student. We share this anecdote to illustrate the danger of reaching conclusions based on rumor or speculation. We also understand, however, that administrators must respond proactively to information that comes to their attention on campus, even if that information is initially presented as a third hand account. This report will outline several such instances where third-party accounts were prematurely dismissed by the School as rumors. Had the School investigated or responded to those reports, it may have led to the discovery – or prevention – of inappropriate relationships or further harm.

We view this report as a snapshot of information known to us, and the School, at this moment in time. Given the dynamics of abuse and trauma, the nature of the disclosure process, individual privacy considerations, the inability to locate and/or speak with some alumna, and other factors beyond our control, we do not presume to have identified every instance of assault, abuse, or misconduct at the Emma Willard School. Our body of work is based on the information available to us through interviews, the online anonymous submission site, student files, and personnel files.

We also understand, having worked in the field of child abuse and sexual assault for all of our professional careers, that this report, and the attention given to this issue by the School, may spur additional reports by community members. The School both encourages and welcomes affected individuals to share their experiences with the School to the extent that they may not have previously done so.⁵

E. Preserving Privacy and Anonymity

In conducting the interviews, nearly all of the alumnae, whether first person or third-party reporters, asked that their names and identifying information remain private. While they wanted their accounts included, many were sensitive to individual privacy concerns and the impact disclosure of their names may have on family and friends. To respect their privacy and encourage candor and participation, we have sought to honor that request in this report.

Similarly, many former staff, faculty members and administrators requested the same degree of anonymity. In keeping with our commitment to full exploration of the facts and the chilling impact it may have on candor, we agreed, where possible, to maintain the anonymity of

⁵ The online webpage, https://www.surveymonkey.com/r/Review_EWS, will remain open. Community members who wish to contribute can submit information, anonymously or with contact information, to Cozen O'Connor through the webpage. No personally identifiable information is captured unless voluntarily offered in any of the comment fields.

individual responses. We have not, however, in any way sanitized the responses, which in many instances reflected poorly on the individual or the institution. Put simply, the facts in this report and the narratives shared by Emma's community members are sobering. We heard, through the voices of mature adults, the voices of adolescent girls. We also heard responses by some administrators that reflected a lack of insight and understanding of the dynamics of abuse. In many instances, through the lens of hindsight, those administrators expressed regret and remorse about earlier responses that are not consistent with today's more nuanced understanding of the dynamics of abuse in the educational setting.

While we necessarily received, and have shared here, first person accounts of abuse, assault and misconduct, we were not called to investigate individual cases to determine whether the conduct occurred as reported. The purpose of this report was to identify and understand Emma's history and culture as it relates to historical allegations of abuse, rather than fact-gathering in the context of a criminal or civil process. In some instances, based on the nature and quality of the information as reported to us, we were able to reach a level of confidence that the underlying conduct occurred as reported. As outlined in greater detail in this report, in those instances, based on the synthesis of the information gathered in our review, we included the name of the respondent in our report to the Board.

In reaching a sufficient level of confidence about whether the underlying conduct occurred, we relied upon our shared five decades of experience in investigating and evaluating credibility in the context of sexual assault and child abuse. The evaluation of the reliability of an account requires a nuanced understanding of the dynamics of child abuse, grooming behaviors, delays in reporting by complainants, predatory behaviors, the process of disclosure and the impacts of trauma. We considered the sensory, emotional and physical details of the account; demeanor; interest, motive or bias; the existence of corroboration (and the lack of corroboration where it should be expected to exist); the circumstances of the disclosure; any statements of admission or acceptance of responsibility; the context of the relationship between the parties, including any differentials in age, power or authority; and how all of that information fit together to determine whether conduct was likely to have occurred. We also considered the impact of pattern evidence demonstrating that a respondent may have engaged in similar conduct with multiple complainants, any information provided by a respondent, and any contemporaneous information available through School files. The presence of a first person narrative or account was helpful in that assessment, but not dispositive; rather, it was the quality and the totality of the available information that informed our confidence in the information gathered. When the nature and reliability of the direct information and attendant circumstances gathered gave us a sufficient degree of confidence to believe that the conduct occurred as described, we shared that conclusion with the Board.

Key factors in the determination to include respondent names included those matters where the information arose through a first person account, there was contemporaneous corroborative information (including in some instances, an admission), the conduct was already of public record, and/or the conduct was criminal in nature. In other instances, where there was no ability to corroborate or refute the report, or the reported conduct was unfounded (based on the School's internal investigation or an external law enforcement investigation), we have not identified the respondent by name. In those instances where the conduct was not substantiated, we recognize

that additional information may come to light after the publication of this report, including first-person narratives by the complainants in those matters, which may support a finding that the conduct occurred as reported.

F. Abuse of Minors

As outlined in greater detail in Appendix III, minors, including adolescents, are most likely to be abused by a parent, caregiver or individual known to and trusted by the minor or the minor's family. Those who abuse children often intentionally acquire roles where they have both unsupervised access to a child, and are in a position of authority over the child. These roles are designed to facilitate trust among the child, the parent or caregiver, and the perpetrator. In many instances, perpetrators manipulate an otherwise appropriate and valued relationship through a gradual process of grooming the child, the family, and other adults in the child or perpetrator's life. Grooming refers to those behaviors designed by an adult to break down the normal barriers that exist between an adult and child in order to support or facilitate sexual victimization with the child. These interactions usually involve desensitizing children to sexuality and emotionally manipulating the child. Grooming gradually accustoms the victim to future or escalating conduct, and serves as a means of ensuring victims' compliance and allowing the perpetrator to maintain the abusive relationship.

The dynamics are further complicated in that many grooming behaviors mimic innocent or positive mentoring, caring and appropriate behaviors, which can complicate the child's ability to identify or understand the nature of the conduct. Similarly, the relationship of trust, the level of authority or custodial control the perpetrator has over the child, and the child's age and access to other adult resources can dramatically impact when – or if – abuse gets reported. For children who experience abuse, there is often a significant delay in reporting. There are myriad reasons for the delay, including a lack of awareness that conduct is wrong, fear; feelings of shame, secrecy, embarrassment and complicity; fear of not being believed; fear of disciplinary consequences or retaliation; manipulation by the perpetrator and, the lack of an identified resource or permission to speak about the issues. As most perpetrators are known to their victims, care or concern for the perpetrator often contributes to a delay in reporting or not reporting at all.

While it may seem obvious that an adult who witnesses, or even suspects, the sexual abuse of a child would report the allegations immediately, there are similar barriers to reporting by adults. For example, lack of understanding and awareness of the dynamics of abuse, societal disincentives to “report” on a co-worker, the bystander effect all impact whether adults recognize or feel empowered to speak up in response to suspected abuse. In recognition of these dynamics, child abuse reporting frameworks place the impetus on reporting suspected abuse, and relieving mandatory reporters from any duty to investigate or evaluate the conduct before making a report.

Finally, we note that many of the reports shared by members of the Emma Willard community related to accounts where adults, charged with educational responsibilities and oversight and authority consistent with that responsibility, took advantage of that position of power. The power differential is a significant element that contributes to both the acquiescence in the conduct and the delay in the reporting.

In addition, because of the overlay of grooming behaviors within the power differential, many adolescents may identify the relationship as consensual at the time, but with the benefit of maturity and hindsight, the coercive and subtle (or overt) nature of the abuse becomes apparent. We note that while many individuals in this report identify the conduct as consensual in nature, we recognize that the concept of consent, even for a student of legal age of consent, is difficult to analyze in the context of the power dynamics. There are no circumstances under which a sexual relationship, consensual or not, is appropriate between an employee, administrator or faculty member and a student in a primary or secondary educational institution.

G. Overview of the Legal Framework

For the purpose of properly evaluating the School's response to reported conduct, it is important to have an understanding of the legal framework. While Appendix IV contains a more detailed discussion, there are two main areas of law that impact this review.

i. Mandatory Child Abuse Reporting Responsibilities

New York's mandatory child abuse reporting law was first enacted in 1964. At that time, the law required doctors and surgeons to report suspected child abuse. By 1969, the law expanded to include "school officials."⁶ School officials were "having reasonable cause to suspect that a child under the age of sixteen years has had serious physical injury inflicted upon him by other than accidental means, or whose condition gives indication of other serious abuse or maltreatment" to were required to report any suspected abuse.⁷

Since that time, the law has continued to evolve to expand reporting responsibilities, including both an expanded list of individuals required to report suspected abuse and expanded definitions of reportable conduct. For example, in 1973, the Child Protective Services Act expanded the list of individuals required to report child abuse or child maltreatment. It also required school officials to "notify the person in charge" of the school, who was responsible to report the conduct.⁸ Notably, the reporting requirement, based on the definition of child abuse and child maltreatment only required the reporting of suspected abuse or neglect (act or omission) of a child *by a parent or other person legally responsible for the child's care*. Because of the way in which the conduct was defined, there was no reporting requirement for suspected abuse committed by a perpetrator who did not meet that criteria. In 1977, the law was amended to expand the definition of abused child to include those children less than 18 years of age.⁹ In 2007, "school officials" was clarified to include "school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate."¹⁰ Today, in the

⁶ 1969 N.Y. Laws 1016-17.

⁷ *Id.*

⁸ *Id.* at 2911.

⁹ 1977 N.Y. Laws ch. 518.

¹⁰ 2007 N.Y. Laws ch. 193 (McKinney's).

private school context, the reporting requirement remains tied to the role of the perpetrator – reporting is only mandated where the perpetrator is a parent or legal guardian of a child.¹¹

Despite this limitation in New York law, the School’s current reporting policy imposes a greater reporting obligation for employees. The policy requires reporting for suspicions of child abuse or maltreatment *committed by anyone*. The policy provides, in relevant part:

In addition to the requirements of New York State law as set out herein, School employees and employees of contracted service providers have a duty under School policy to report suspicions of child abuse or maltreatment committed by anyone, not just a parent or other person legally responsible for the child’s care, to a member of the School’s Administrative Council or a Designated Trustee. If the alleged perpetrator of the abuse is not a parent or other person legally responsible, pursuant to Emma Willard policy, a report must be made to local law enforcement.

This requirement is similar to that imposed for public schools under the New York Education Law, which requires reporting of suspected abuse by school employees or volunteers. The Education Law, amended in 2000 (effective July 1, 2001), provides “protection of pupils in educational settings from abuse and maltreatment,”¹² and has been virtually unchanged since its enactment in 2001. It requires public school teachers, school nurses, school guidance counselors, school psychologists, school social workers, school administrators, school board members, or “other school personnel required to hold a teaching or administrative license or certificate”¹³ to report child abuse¹⁴ by an employee or volunteer in an educational setting.¹⁵ While this law filled the gap left by the Child Protective Services Act definition of perpetrator by requiring public school officials to report abuse committed by school employees or volunteers, it does not apply to private school settings.

ii. Criminal Law

New York criminal law generally prohibits sexual intercourse, oral or anal sexual conduct, or other sexual contact with a person through the use of force or without that person’s consent.

With respect to the age of consent, since 1965, in all cases, New York law specifies that a person is incapable of consent when he or she is less than seventeen years old.¹⁶ Prior to 1965, the age of consent was eighteen.¹⁷ New York law also has statutory provisions which prohibit sexual

¹¹ Additional discussion of this concept, and the application of this concept as it relates to those who stand in the shoes of a parent or caregiver (in loco parentis) is addressed in Appendix IV. While courts have acknowledged a school’s duty to exercise such care of a student as a parent would since “a school, in assuming physical custody and control over its students, effectively takes the place of parents and guardian,” this concept has not yet been addressed in connection with mandatory reporting laws. See *Mirand v. City of N.Y.*, 84 N.Y.2d 44, 49 (1994).

¹² 2000 N.Y. Laws 2756.

¹³ N.Y. Educ. Law § 1126(a).

¹⁴ A child is a person under the age of 21 in a New York school district within a city having a population under one million.

¹⁵ A bill is pending that would made this law apply to private schools as well. See 2017 N.Y. Assembly Bill A5371.

¹⁶ *Id.* at § 130.05.

¹⁷ Penal Law § 2010.

intercourse by a person of twenty-one years old or more engaging in sexual conduct with a person less than seventeen; a person of eighteen years old or more engaging in sexual conduct with another person less than fifteen years old; and a person of eighteen years old or more engaging in sexual conduct with another person less than thirteen years old.

In the context of criminal offenses, a statute of limitation is the time in which a criminal prosecution must be commenced. Under current New York law, the statute of limitations is five years for felonies and two years for misdemeanors.¹⁸ There is no statute of limitations when the alleged victim is under eleven years old.¹⁹ For all sex crimes committed against a person less than eighteen years of age, the statute of limitations does not begin to run until the offense is reported to law enforcement or the alleged victim reaches age eighteen, whichever is earlier.²⁰ Consistent with this framework, for most felony sex offenses, the statute of limitations is five years. Currently, for the crimes of rape, criminal sexual act, aggravated sexual abuse, course of sexual conduct against a child, there is no time limit to bring a prosecution.

Prior to 2006, the New York State statute of limitations for prosecutions was five years for rape, sodomy, aggravated sexual abuse, first- and second-degree sexual conduct against a child, and facilitating a sex offense with a controlled substance.²¹ For first- and second-degree sexual conduct against a child, a prosecution could occur within five years of the most recent act of sexual conduct. For crimes of sexual misconduct, forcible touching, and second- and third-degree sexual abuse, the statute of limitations was two years.²² Where the victim was under the age of 18, the statute of limitations did not start until either the child turned 18 or where the offense was reported to law enforcement or child protective services, whichever came first.

¹⁸ N.Y. Crim. Proc. Law § 30.10.

¹⁹ N.Y. Crim. Proc. Law § 30.10.

²⁰ N.Y. Crim. Proc. Law § 30.10(f); 1996 N.Y. Laws ch. 122.

²¹ N.Y. Crim. Proc. Law § 30.10; 1996 N.Y. Laws ch. 122.

²² *Id.*

III. Chronology of Reported Conduct

As noted above, our review encompassed reported conduct from the mid-1950s through the 2015-2016 academic year. This report is organized in chronological order by decade. While a comprehensive overview of the history, culture, climate and institutional context during each decade is beyond the scope of the review, we have sought, where appropriate, to include the relevant context that informs our understanding of how the School responded – or failed to respond – to concerns of sexual abuse, assault or other misconduct during the relevant time frames.

As outlined above, this review examines how the Emma Willard School responded when it knew or should have known that a faculty or staff member had sexually abused, assaulted or otherwise harmed a student. This review focused on understanding and evaluating how the School acted in response to concerns or reports of sexual abuse, assault or misconduct. As noted in this report, we received information in various ways – sometimes directly and sometimes indirectly. Where we received a direct report from a person who shared that they had been subjected to harm, this report identifies that report as a first-person account or narrative. Where the School received information from a third-party – that is, a person who was sharing information based upon what they observed, learned from someone else, or believed – this report identifies that person as a third-party reporter.

The summary narratives below, in some instances, identify the respondent by name. As set forth above, the available information about the conduct in those reports rose to the level where we, based on the information received and the process employed, had confidence that the conduct occurred as reported.

1950s

1. Overview

We received one report concerning one respondent from the 1950s. The information in that one report came from two third-party reporters.

2. Applicable Policies and Laws

In the 1950s, the School had no written policies that addressed sexual or gender-based harassment or violence or child abuse. The School did not have a written policy regarding sexual relationships between employees and students.

Throughout the 1950s, under New York law, a person was incapable of consent to sexual intercourse when he or she was less than eighteen years old.²³

In the 1950s, New York had no law regarding the reporting of suspected child abuse.

3. School Leadership

Anne Wellington and Clemewell Lay served as co-headmistresses at the School from the early 1940s until 1961. We did not have the opportunity to speak with either Ms. Wellington or Ms. Lay as both are deceased. Interviewees described both former co-headmistresses as conservative and relatively strict in their administration of the School.

4. Summary of Information Gathered and School's Response

First Report 1950s – Alan Buck

Alan Buck served as a math and science teacher at the School from 1957 until June 1959. According to a review of Mr. Buck's personnel file, Mr. Buck began a friendship with a student through correspondence; the student was not in Mr. Buck's classes. The student enrolled at Emma during the 1956-1957 academic year, with an anticipated graduation date of 1960. In May 1959, at the end of her junior year, the student, then 16 years of age, and Mr. Buck were married.²⁴ They had two children, one in 1960 and one in 1962, and later divorced in 1969. Both Mr. Buck and his former wife are now deceased.

During the course of the review, we received information from two alumnae who shared their recollections about the relationship between the student and Mr. Buck. One alumna shared, "One kid from the Class of 1960 ran off with the handsome young math teacher over winter break and the school didn't know anything until their marriage was announced. You bet a lot of students knew." Another alumna, a student from the 1970s with an older sister in the Class of

²³ 1909 N.Y. Penal Law § 2010 (last unnumbered para.).

²⁴ Current New York law allows marriage at age 14 and 15 with parental consent and court approval, and marriage at 16 or 17 with solely parental consent. N.Y. Domestic Relations Law §§ 15, 15-a.

1960, recalled that her sister's friend from the Class of 1960 "ran off and eloped with a teacher," which caused a "huge scandal at the time."

A review of Mr. Buck's personnel file and the student's file reflect that the School learned about the marriage in June 1959, shortly after their marriage on May 31, 1959. On June 10, 1959, ten days after the wedding, one of the co-headmistresses wrote to Mr. Buck "to confirm rumors about which you would have information" and noted in Mr. Buck's personnel file that he and the student visited the Headmistress to inform her that they were married. Several days later, on June 15, 1959, one of the headmistresses spoke with Mr. Buck, who informed the headmistress that during the preceding winter holiday break, he and the student made plans to marry and that over the weekend of May 8-9, 1959, he and the student took a weekend trip to Oneonta and applied for a marriage license. The headmistress' notes of the conversation indicated that Mr. Buck also shared information about the date and location of the marriage and showed her the marriage certificate. The headmistress asked Mr. Buck to have the student share with the School the names of any students who knew of the marriage.

Several days later, on June 21, 1959, the student wrote to the headmistress:

Mr. Buck has informed me that you are interested in the degree to which my Emma Willard contemporaries were involved in our relationship while attending the school. I should like you to know that I consider myself to be a discreet individual and, until the end of the school year, I did not mention my circumstances to any Emma Willard student or trustee, or member of the faculty or staff, other than Mr. Buck himself. I did observe, however, that persons with little personal life of their own had an acute interest in our situation and tended to satisfy their curiosities with vivid, though imaginary, tales and anecdotes.

In a letter dated June 19, 1959 to the student's guardian, one of the headmistresses made reference to learning about the relationship between Mr. Buck and the student after the fact. The letter states, in relevant part that, "She seems to have carried on satisfactorily in class in spite of the strain under which we now know she was working." The headmistress also recognized that in hindsight she wished "that somehow we could have put the information available to us together after the Christmas holiday. I realize, however, that neither of us had much information at the time."

At a later unknown date, one of the co-headmistresses wrote to the student to instruct her that she was "welcome" on campus, but expected that the student pre-arrange her visit with one of the headmistresses.

An alumna from that time later shared her perspective of the marriage with an administrator, "We were just fascinated when Mr. Buck married." The alumna did not see the relationship as anything but romantic, noting that it was "just part of that era." The administrator recounted that at the time, helping the girls to meet boys at Rensselaer Polytechnic Institute (RPI) and West Point "so that they could make good marriages" was part of the culture.

1960s

1. Overview

We received nine reports concerning six respondents from the 1960s. Four of the reports came from complainants and five of the reports came from third-party reporters.

2. Applicable Policies and Laws

In the 1960s, the School had no written policies that addressed sexual or gender-based harassment or violence or child abuse. The School did not have a written policy regarding sexual relationships between employees and students.

From 1960 to 1964, under New York law, a person was incapable of consent to sexual intercourse when he or she was less than eighteen years old.²⁵ In 1965, the age of consent under New York law changed to seventeen.²⁶

In the 1960s, New York enacted its first child abuse reporting laws. In 1964, New York required doctors and surgeons to report signs of child abuse.²⁷ In 1969, the law expanded to require “school officials ... having reasonable cause to suspect that a child under the age of sixteen years has had serious physical injury inflicted upon him by other than accidental means, or whose condition gives indication of other serious abuse or maltreatment” to report the abuse.²⁸

3. School Leadership

Anne Wellington and Clemewell Lay served together as co-headmistresses until 1961 when William Moore Dietel became Principal. Mr. Dietel served as Principal from 1961 through 1970.

4. Summary of Information Gathered and School’s Response

Among Mr. Dietel’s priorities was a commitment to diversity and changing the composition of the faculty. Mr. Dietel shared that under Ms. Wellington and Ms. Lay, the School faculty had been comprised of primarily single women. Mr. Dietel sought to bring in young male faculty, many with families, and created what he identified as the first apartment style housing for faculty on a girls’ school campus. He explained that he was looking for “faculty that were interesting people themselves as well as being competent teachers” because he believed that “so much learning takes place in the interchange of faculty and students.” As a result, there was a significant turnover in faculty in the 1960s. The change in faculty composition created a new landscape for the School to navigate in terms of monitoring and setting expectations for faculty-student interactions. One former administrator observed that the change in faculty composition was a sea change for the lives of students, explaining that “Bill Dietel changed it from a convent

²⁵ NY Penal Law § 2010.

²⁶ NY Penal Law § 130.05.

²⁷ 1964 N.Y. Laws 1386 (repealed by 1965 N.Y. Laws 1897).

²⁸ 1969 N.Y. Laws 1016-17.

to a place where people could actually say the word sex.” That change also corresponded with shifts in culture around sexuality and the role of women in the late 1960s and early 1970s.

Of note in this time frame at Emma was a group of male teachers who informally gathered at faculty member Mark Johnson’s on-campus house on a regular basis. Mr. Johnson resided at the house, known as the Gatehouse, with his wife and children. Many alumnae and administrators referred to this group as the “Gatehouse Gang” and expressed concerns to us that the informality of the setting blurred professional lines and contributed to inappropriate faculty-student relationships. An alumna from the class of 1970 described a group of students who went to Mr. Johnson’s house on weekends as a “cult.” She said it was well-known that students could “go there and hang out” until it was time to be back in the dorms and that groups of eight to twelve girls would go there on Friday or Saturday nights “to drink and hang out.” Mr. Dietel also recalled that senior students spent significant time at the Gatehouse. Notably, Mr. Dietel recalled with specificity the names of a number of alumnae who spent time at the Gatehouse. Those alumnae later came forward as part of our review to report having been abused by either Mr. Johnson (see the 1970s, below) or another male employee reported to have been part of the “infamous” Gatehouse Gang. Mr. Dietel recalled that while he was on his “guard,” he was reassured by the innocence of the setting because he believed Mr. Johnson’s wife was always present at the gatherings.

A faculty member from that time (referring to both the late sixties and early seventies) shared, “There was no question that rumors passed around. They [the Gatehouse Gang] seemed awfully informal or familiar in their dealings with students; the notion of having a very informal, very person-to-person, informal, open, free-wheeling relationship with your teacher was a very much kind of a vogue at that time as opposed to a traditional pedagogical relationship. In a way, they were pushing it very far; it was in the air at the time, more than people perhaps like to imagine or acknowledge. That is kind of the way it was, and the fact that it went to excess in a way is not surprising.”

Mr. Dietel shared that during his tenure, he “was aware when there were occasions that teachers, or other students, thought the teachers were too familiar with the students.” He explained that “When those occasions arose, I would have a conversation with those individuals – to say, whether you intend it or not, you raise concerns on the part of your colleagues.” Mr. Dietel said that, “I would say I want some reassurance that you are not doing anything inappropriate.” Mr. Dietel explained that he trusted the teachers to be smart enough to know that if they engaged in misconduct, they would be dismissed and unable to get a new position elsewhere. He explained, “As far as I know, I had no evidence that any male teacher was having a relationship with a student.” In addition, he said, with the exception of the Patricia Kelly matter, below, “I don’t remember any student ever coming to me and talking about sexual abuse or reporting abuse.”

First Report 1960s – Female Faculty Member²⁹

We received one first-person report from an alumna from the 1960s (the complainant) about a female faculty member. The complainant reported that the teacher stood in her classroom doorway “to give a fast feel” of the breasts of students as they entered the classroom. The complainant recalled that this happened to her on one occasion, and as a result, she changed her behavior by arriving at the class early and sitting in the back of the room. The complainant did not share this conduct with the School contemporaneously. She explained that she felt she could not approach the headmistresses about what happened, explaining that they “were the enemy because they would sell you down the river and punish you.”

We reviewed the faculty member’s personnel file, which did not reflect any reported misconduct or disciplinary action.

Second Report 1960s – Male Faculty Member

We received information that a male faculty member married an alumna from the class of 1965. The alumna was in the faculty member’s class during her eleventh grade year (1963-1964). They married within about a year after the alumna’s graduation, and were married until the alumna’s death in 2009, more than 40 years later. One alumna from 1965 shared with us her recollection that the student had an “affair” with the teacher and “ended up marrying the guy” immediately after graduation. She recalled that the teacher was 23 or 24 years old at the time and left the School after he and the student were married. The alumna described the teacher and student as “star-crossed lovers.”

We reviewed the student’s file and the faculty member’s personnel file. The student’s file does not contain any contemporaneous documentation of the relationship or the marriage. The teacher’s personnel file includes a June 1963 letter by the head of school to a post-secondary institution, observing that the faculty member “is an attractive young man teaching in an all-girls secondary school, and this can present some rather interesting situations. He has dealt with these firmly and with considerable aplomb.” The personnel file also contains a letter of recommendation from the head of school on behalf of the faculty member, who was seeking new employment. The head of school wrote about the faculty member that the “decision to leave was his own” and states that the faculty member is “eager to find a place where his talents . . . will have greater opportunity to express themselves.”

Third Report 1960s – Male Faculty Member

We received a third-party report from an alumna from 1965 that a male faculty member was involved with a residential student from the class of 1965. The alumna said she was aware that the student had a relationship with the teacher, whom she named, and that she believed all the students knew about the relationship between them at the time it was occurring. The alumna explained that the students viewed the relationship as “kind of exciting and thrilling and a secret

²⁹ In the cases where the faculty member is not identified by name, we refer to them simply by their gender and role on campus. While many reports are titled Male Faculty Member, each enumerated report refers to a separate individual. For example, the Second and Third Report in the 1960s, below, each refer to different individuals.

and a romance, so no one reported it.” The alumna also shared that she did not think that anyone viewed relationships between these teachers and students as abusive because that concept was not “even in the vernacular in the 60s.”

We later spoke with the alumna from the class of 1965 (the complainant) who was identified as being in a relationship with the teacher. The complainant explained that when she was a senior, a teacher flirted with “four or five of us.” She said the teacher left her notes that said things like, “You’re so pretty.” She recalled that on the day of graduation she and the teacher met behind the chapel on campus, where they engaged in “closed-mouth kissing.” The complainant shared that at the time, she was willing to participate in this contact, but that with the perspective of time, she was “not looking at it the way I should.” The complainant also said that the day she graduated, the teacher followed her to LaGuardia airport and asked her to marry him. She said that she rejected his proposal. She boarded the plane and never spoke to him again, although he later “wrote several pathetic, angry letters about how I led him on.”

The complainant said that she recalled a time when another faculty member, who was close friends with the respondent, told her that the respondent thought highly of her. She perceived that the faculty member made this comment with a knowing nod, to indicate to her that he knew about “the flirtation.”

Regarding the era (1960s), the complainant said, “Everyone knew that teachers and faculty were not supposed to get it on,” but that from her perspective, “for some reason it wasn’t a big deal.

We reviewed the complainant’s student file, which did not contain any contemporaneous reference to this matter. We also reviewed the faculty member’s personnel file, which did not reflect any reported misconduct or disciplinary action.

Fourth Report 1960s – Male Faculty Member

We received one third-party report from an alumna from 1974 who heard from a friend (also a former student) that the friend’s sister, a graduate from the class of “sixty eight,”³⁰ was abused by a male faculty member. The 1974 alumna described the employee as “very fast and loose with his hands,” and said the 1968 alumna (the friend’s sister) was always at the employee’s house. The 1974 alumna said that her friend told her that “most of the victims feel dirty but are unwilling to come forward.” She declined to share the name of the 1968 alumna and did not provide additional detail relating to the suspected abuse. She acknowledged that the 1968 alumna had not identified the employee by name, but speculated that it may have been a particular male employee. We reviewed the personnel file of the suspected employee, which did not reflect any reported misconduct or disciplinary action.

³⁰ The witness referred to graduates from 1968 as the class of “sixty eight.”

Fifth and Sixth Reports 1960s – Male Faculty Member

Fifth Report 1960s – Male Faculty Member

We received three third-party reports from alumna, one from the class of 1969, one from the class of 1970, and one from the class of 1974. The alumnae from 1969 and 1970 shared their suspicions that the male faculty member was involved in an inappropriate relationship with a student from the class of 1968. We sought to contact the student from 1968, but received no response to our outreach. The two 1969 alumna told us that during either the 1966-1967 or 1967-1968 academic years, she often saw the student from the class of 1968 talking and socializing with the teacher outside of class, and said it was very clear there was a chemistry between the two. She said she observed the teacher and the student leaning up against a car together and said, although she never confronted the student about her interactions with the teacher, the two were rumored to be having an affair. The 1970 alumna also wondered whether the teacher and the student had a sexual relationship or whether it was “just flirtation.” She noted that the teacher seemed to genuinely care for the student and believed that at one point the teacher went to the student’s home to meet her parents. One of the alumna observed that generally, students were thrilled being favored by or to have the one-on-one attention from faculty.

The faculty member in this matter agreed to speak with us. He told us that he had been very close with the complainant and that they had developed an emotional attachment in the spring of her senior year. He said that he never taught the complainant in class, that he was only alone with the complainant once and that they never moved from an emotional attachment to a physical relationship. The faculty member said that he visited her at her home during the summer after her graduation, and at that point, “It was clear to both of us that this probably didn’t make any sense.” He explained that he had been a young faculty member and was “pretty naïve about things” at that time, but that this “truly is an embarrassment for me.”

Sixth Report 1960s – Male Faculty Member

The 1974 alumna shared her belief that the teacher was “known for being handsy.” She identified a particular student from the class of 1974, who shared with her at the time that the teacher had “made some really inappropriate comments.” We spoke with the student of concern from 1974, who said she had not experienced anything that made her uncomfortable while at Emma, nor was she aware of any inappropriate faculty-student interactions.

The male faculty member in question was reported to be part of the Gatehouse Gang. Mr. Dietel specifically recalled addressing this teacher about his conduct because he was concerned about the teacher’s interaction with a member of the class of 1968. He said that he informed the teacher that other faculty were complaining that the teacher was spending too much time with the student, but that when he confronted the teacher, the teacher insisted he was not having an affair with the student. Mr. Dietel said that he spoke with the teacher to set limits on his conduct.

The faculty member shared with us that male and female faculty both spent time at the Gatehouse and that student-faculty interaction was encouraged by the administration. The

faculty member explained that faculty were encouraged to spend time and share meals with students as part of the “holistic milieu for students.” He said that they did not see themselves as the “Gatehouse Gang,” and that “a lot of thinking about education and the new curriculum went on” at the Gatehouse. The faculty member shared that he was unaware of any concerns about the conduct of other faculty members at that time.

We reviewed the relevant student files, as well as the personnel file. There was no contemporaneous documentation of these concerns in any of the files, and the personnel file did not reflect any reported misconduct or disciplinary action. The personnel file does contain a positive recommendation letter written by the head of school in 1970.

Seventh, Eighth and Ninth Reports 1960s – Patricia Kelly

We received two first-person accounts of inappropriate sexual relationships between Patricia Kelly, who taught religion classes from 1964 until 1965, and students. We also received a third-party report of a relationship with a third student from the class of 1965, who is now deceased. The conduct with at least one student was reported contemporaneously to Mr. Dietel, who terminated Ms. Kelly’s employment.

Seventh Report 1960s – Patricia Kelly

In one of the first person accounts, an alumna from 1965 (the complainant) told us that she had just turned 17 years old when Ms. Kelly began “grooming” her. The complainant used the term grooming to describe the process by which Ms. Kelly began crossing unspecified boundaries.

She said that by the end of 1964, Ms. Kelly invited her on a “big romantic weekend” in Vermont. The complainant said the relationship continued for the remainder of the 1964-1965 academic year, during which her student file confirms the student was enrolled in Ms. Kelly’s Religion class. The complainant said she and Ms. Kelly would meet in the school chapel, at Ms. Kelly’s house, and in Vermont. They “spent a lot of time together” and “would go for coffee, donuts,” and drives in the student’s car. The complainant explained that she “could get away with” leaving campus because she was a day student. The complainant also said she used the on-campus tunnels to visit Ms. Kelly in the chapel “so that no one knew.” Nevertheless, the complainant shared her belief that others noticed her interactions with Ms. Kelly and described times where others could have observed the two together. She remembered that on one occasion a physical education teacher walked in on her and Ms. Kelly talking in the pool area. On other occasions, she and Ms. Kelly went to Ms. Kelly’s faculty housing together. The complainant described one occasion where she, Ms. Kelly and a music teacher drove back to campus following a music festival. She said that the music teacher said to her “I know you are really close with Pat, but I’m not sure you really know what you are doing.” The complainant said she replied, “Yes, I do. I am 17 years old.” The complainant also said that “no one really came to me to ask me questions” and thinks people “were hesitant to come forward.”

Eighth and Ninth³¹ Reports 1960s – Patricia Kelly

³¹ The Ninth Report refers to the alumna’s report that Ms. Kelly was rumored to be involved with another student from the class of 1965. We were unable to interview that student as she is deceased.

In the second of the first person accounts, an alumna from 1966 (the complainant) also described a sexual relationship with Ms. Kelly. The complainant's file contains her class schedule, which indicates that she was enrolled in Ms. Kelly's religion classes during the first marking period of her senior year (1965-1966). The complainant described Ms. Kelly's behavior as a "slow seduction." The complainant said Ms. Kelly bought her gifts, including a cross and a book containing emotional poetry. The complainant also said Ms. Kelly "started setting up rendezvous" and would arrange for them to meet in the chapel. The complainant explained that she would walk from her residence hall through the underground tunnels to meet Ms. Kelly in the chapel and that she "came and went as [she] pleased" from her hall because there was "little supervision." The complainant said that "it was not long" before Ms. Kelly asked her to "take off [her] clothes" to "hug [her], love [her], touch [her]." The complainant said the conduct occurred for about three months, and while she does not remember the number of times that they met in private, she said the interactions were "growing more intense."

The complainant explained how the interactions with Ms. Kelly made her feel; she said that the longer the conduct went on, "the sicker [she] got." After three months, the complainant felt she was "having a slow mental breakdown." She noted a time when she went out into the deep snow and began sobbing. She said that a roommate helped her to Mr. Dietel's office where she stood in front of his desk and announced that she was "sick." She said she took a leave of absence after Revels and returned to school in March. The complainant said that her father threatened to sue the School unless Mr. Dietel terminated the teacher and allowed the alumna to graduate. The complainant said that Ms. Kelly was "let go." She said that the disruption of her senior year precluded her ability to attend her college of choice.

The complainant's student file contains a letter from her father to the administration in the fall of 1966. The letter reads, in relevant part: "Now that [she] is at [college], she is being hounded with long-distance phone calls, telegrams, and letters from Miss Pat Kelly. All of these seem to come from around Boston, possibly from Newton, Massachusetts."

The complainant also said Ms. Kelly was rumored to be involved with another student from the class of 1965, who is now deceased.

Ms. Kelly's personnel file contains correspondence surrounding the circumstances of Ms. Kelly's termination from Emma. In December 1965, Ms. Kelly resigned, and, according to a letter in the file, Mr. Dietel called a special meeting to inform the faculty of Ms. Kelly's resignation, and the faculty approved of the administration's response. Shortly thereafter, in the spring of 1966, Mr. Dietel twice wrote qualified letters of recommendations for Ms. Kelly. On February 8, 1966, Mr. Dietel declined to recommend Ms. Kelly to a teaching agency. He wrote, in relevant part:

Miss Patricia M. Kelly resigned from the Emma Willard School in December 1965. If she had not resigned, she would have been asked to leave our employ. We were not satisfied with her professional standards nor with her personal conduct... Unhappily, she was not able to remember at all times that she was the

adult in a student-teacher situation, and I am frankly convinced that she has deep personal needs which could not be met in this kind of situation.

In April 1966, in response to a request for an evaluation of Ms. Kelly, Mr. Dietel wrote a letter to a principal of another school and said that he had “lost faith in her professional judgment and her capacity to conduct herself as an adult member of the instructional staff.” He said he could not give an unqualified recommendation of Ms. Kelly and described her interactions with “several students” as “unacceptable,” “immature,” and as posing a threat of “irreparable harm” to those students.

With respect to Ms. Kelly, Mr. Dietel recalled that a parent called him to express concern about the amount of time that Ms. Kelly was spending with his daughter. Mr. Dietel explained that he called the student in, and the student seemed to be attached to the teacher emotionally. He also called Ms. Kelly in, who acknowledged that she had been spending a lot of time with the student. Mr. Dietel said that he told Ms. Kelly, “You have to give me your word that this will stop, or I will dismiss you.” He said that when she refused to refrain from contact with the student, he fired her. Mr. Dietel explained that the chairperson of the department objected to Ms. Kelly’s termination, and threatened to resign if Mr. Dietel did not reinstate Ms. Kelly. Mr. Dietel asked for her support, and when the chairperson refused, Mr. Dietel terminated the chairperson as well.

1970s

1. Overview

Through our review, we received nineteen reports concerning nine respondents from the 1970s. Nine of the reports came from complainants, eight of the reports came from third-party reporters, and two of the reports were submitted anonymously with no ability to ascertain the identity of the reporting party.

2. Applicable Policies and Laws

In the 1970s, the School had no written policies that addressed sexual or gender-based harassment or violence or child abuse. The School did not have a written policy regarding sexual relationships between employees and students.

During the 1970s, under the New York Penal Code, a person was incapable of consent to sexual intercourse when he or she was less than seventeen years old.

In the 1970s, New York required “school officials ... having reasonable cause to suspect that a child under the age of sixteen³² years has had serious physical injury inflicted upon him by other than accidental means, or whose condition gives indication of other serious abuse or maltreatment” to report the abuse.³³ The Child Protective Services Act of 1973 expanded the list of individuals required to report child abuse or maltreatment.³⁴ For reports arising in the school setting, the Child Protective Services Act required the reporting party to “notify the person in charge” of the school, who was then also responsible for reporting the conduct.³⁵ As noted above, however, the reporting requirement was limited to suspected abuse or maltreatment by a parent or legal guardian. A person who willfully failed to report abuse was subject to civil liability and could be charged with and convicted of a Class A misdemeanor.³⁶

3. School Leadership

Dennis Collins served as the Principal from 1970 to 1974. He was replaced by Frances O’Connor, a former nun, who served as Principal from 1974 to 1979. Robert Curtis Parker became Principal in 1979, a position he held until his death in 1986.

³² In 1977, the law was amended to include children less than eighteen years old. 1977 N.Y. Laws ch. 518.

³³ 1969 N.Y. Laws 1016-17.

³⁴ The 1973 Child Protective Services Act expanded the reporting requirement to the following individuals: “any physician, surgeon, medical examiner, coroner, dentist, osteopath, optometrist, chiropractor, podiatrist, resident, intern, registered nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, a Christian Science practitioner, school official, social service worker, day care center work or any other child care or foster care worker, mental health professional, peace officer or law enforcement official.” 1973 N.Y. Laws 2910-2911.

³⁵ 1973 N.Y. Laws 2911.

³⁶ *Id.* At 2913.

4. Summary of Information Gathered and School's Response

The 1970s were marked by dramatic transition in the style of leadership of the School. Dennis Collins was a very young head of school, assuming the role at the age of 30. Prior to 1970, he had worked in higher education, and his role as Principal was his first foray into secondary education. Mr. Collins shared that the School was “enormously energized” and “highly acclaimed” when he arrived, largely due to Mr. Dietel’s efforts to transform an “old-line girls boarding school” culture through a revised curriculum and faculty body. During his tenure, Mr. Collins explored the concept of making the School co-ed before concluding that the School should remain single sex. He also initiated an exchange program with the Thatcher School in California.

Mr. Collins said that he was unaware of inappropriate faculty-student relationships. He said that the only issue he was aware of was “largely a feeling . . . that some of the girls were more attuned to the interests of the male faculty than they might have been.” He said there was a “sense” but “nothing ever resolved itself.” He explained that given his naiveté and inexperience in secondary education, he did not know if such “conduct was common to this population or unique or should be of any concern.” Mr. Collins said that he “never had any hard evidence that anything inappropriate or untoward was happening,” and that he perceived it as “just a friendliness about male faculty and young girls.” Mr. Collins referenced the Gatehouse as an example, explaining that Mr. Johnson was “a messianic member of campus.” He corroborated earlier accounts of gatherings where three or four faculty members would get together to drink. He said occasionally a handful of juniors or seniors would join. He explained that the group of faculty were all young – some single and some married – but that he was never aware of any sexual misconduct.

A male faculty member from the time confirmed that during both Mr. Dietel’s and Mr. Collin’s time, “there were a lot of rumors about men with those girls.” The faculty member explained, “In a place like this, you hear them and you wonder about them – I just brushed them aside – you just think that rumors will be rumors.” The faculty member shared, “at that time, the 70s was a period of sexual revolution. There was a sense of more tolerance of, if not philandering, at least sexual explicitness and for that matter, for want of a better term, what would seem certainly today inappropriate flirting. There was a sense that all this was allowed – that this had been part of the change in the sixties and coming home to roost in the seventies.” The faculty member said that it was not their place to investigate the conduct – that was the responsibility of the School administration; “if the School administration asked you a question, you could give your opinion, but I was never asked. Some number of us felt this way very much.” A female faculty member shared a similar perspective, but noted that as a junior member of the faculty, and a female at that, she “never felt like [she] had the wherewithal to say anything.” She shared, “I remember the talk, but I also remember the general feeling of who would ever have expected Dennis to do anything – they are all together. It’s the good old boys network, and the fact that these guys were married was like stepping on toes there – hard to confront.” Another administrator observed, “The hard part, so often when you are dealing with rumor, when you would go after the rumor, it was like, oh no, it is alright, nothing happened” because the student would deny any inappropriate conduct.

Frances O'Connor was a stark contrast to Mr. Collins. One faculty member observed that she "came in like a blockbuster" and "blasted through the dorms" with a commitment to make changes. A former nun, she was tasked with achieving financial stability, a task which she said did not make her popular. Dr. O'Connor described the time as full of protests, drugs and alcohol. She reinforced the description of the Gatehouse Gang as a group of liberal faculty Bill Dietel brought in to liven up the curriculum; she reflected, "They ended up livening up other things." Dr. O'Connor took steps to move Mr. Johnson from the Gatehouse and installed her Assistant Head of School in the house. She said that the Gatehouse Gang "thought nobody should be able to tell them what to do."

Dr. O'Connor shared that she became aware of inappropriate relationships between students and faculty members that concerned her. She recalled walking across campus with "a child" who told her that a male faculty member "fondled her breasts" when she went to his house for tutoring. She said that she reacted with surprise to the student's disclosure and that the student said, "Sex ran the school. Didn't you know that?" She said that a mother later came to see her to complain that her car had been keyed by a faculty member in connection with her daughter's relationship with the faculty member. She said that the mother was both aware of, and approved of, the relationship between her daughter and the male faculty member. Dr. O'Connor said that she consulted with the School's lawyer and did research to determine how to best respond. Dr. O'Connor was concerned that she not accuse anyone falsely of engaging in improper conduct. She also recalled wanting to report the conduct to the police, but feeling hampered by the student's mother's approval of the relationship.

Dr. O'Connor also learned about conduct involving Malcolm Bird, a French teacher. As described below, Dr. O'Connor fired Mr. Bird. She said that Mr. Bird reacted by telling her that she was "foolish if [she] didn't think that was the norm."

On May 2, 1978, Dr. O'Connor gave an address to the faculty body. The address was preserved in the School's Archives. A full copy of the address is attached as Appendix V. Dr. O'Connor began:

I am feeling very old today – and very tired. The events of this term have taken the heart of me, and left me angry and discouraged. I have learned that I have been living in a dream world here at Emma Willard, and many of you will learn the same thing about yourselves this afternoon. I've learned that the awesome responsibility I feel for the students entrusted to our care is not shared to any degree at all by some of my faculty. I've learned that the desire to help young people and to give of oneself for them is replaced in some of our colleagues by the desire to use our students for personal pleasure and satisfaction and that some ignore the most basic responsibilities that are ours as educators and surrogate parents. My new-found knowledge has sickened me.

I am going to share with you information that you need to know if you are to understand the reality of what we are doing to our young people here at Emma Willard. But first, I want it to be very clear to everyone in this room that what I am saying is confidential and not to be shared in any way with anyone not present here now. If any of our colleagues have missed this meeting and want to know

what was said, please refer them to me and to me alone. I am not giving you information for discussion. I am giving you information for thought that can and must lead to significant and immediate changes here at Emma Willard.

I have had some cause for concern during all my years as Principal here that the adult-student relationships at Emma Willard are not what they should be. I've spoken frequently of our need to uphold standards, been distressed by an occasional adult ridiculing the rules of the School or the authority of another adult, been displeased by the casualness of the attire of some of my colleagues, and had a vague uneasy feeling that we were not as responsible and professional as we make ourselves out to be.

Since the beginning of this term, just over a month ago, I have had occasion to speak with parents, students, faculty and Trustees about a very awkward topic: sexual intimacy between teachers and students. Not one unfortunate event, but several; not one teacher, but several; not one student, but many. Here is what I have learned. Even before my coming to this campus it was common knowledge among some students and some faculty that certain adults on campus had intimate relations with certain students. My predecessor, with whom I have recently spoken, heard rumors to this effect, and dealt with at least one teacher on the issue. He wanted so much to believe that it was only rumor, having no way to prove the contrary, that he did just that. I have heard similar rumors and have also dismissed them as fantasy or less. But now I can no longer do so. I know for a fact that it is going on. I cannot and will not tell you who is involved, how many faculty members or to what extent. That is an issue for me to handle with the Trustees and the School's attorney. I can assure you also that I have read "The Children's Hour" and am not perpetuating one here at Emma Willard. I am more fearful than you can imagine of making a mistake in such a serious and delicate area. Let me also caution you against assuming that any or all of the people who have or will leave the School are involved in these activities. While it is logical to assume that some may be, the majority will certainly not be and to cast doubts on their honor and professional standards would be unfair and seriously harmful.

With these cautions, let us look together at the situation and turn it around as of today, 3:45 p.m., Tuesday May 2nd. Several of the students who admit to being sexually involved with faculty have told me that they and their friends feel that sex makes this place go round. They were amazed that I had not heard that before. It seems to be a common and frequent topic of conversation at least among the boarders. Needless to say, because they know there have been some student-teacher lovers, they feel that is common. They misread many of our actions and weave them into rumors and fantasies which become reality to them.

I talked with the parents of one student and was told that their daughter was quite confused because she felt our School gave out many signals that we condone and even encourage sexual promiscuity. She pointed out that the dating behavior of our adults was quite indiscrete, and that students were often aware of adult

affairs on campus. She also pointed out that occasionally students are invited to faculty parties where liquor flows easily and is followed by much hugging and kissing among the adults. She added that some of our outside speakers in Sex Education seem to leave the impression that everyone can and should do everything with anyone. Then, to add to her daughter's confusion, the one adult she most respected and trusted and wanted to talk with was rumored to be involved in a lesbian relationship with another faculty member and simultaneously in an extra-marital affair with another. She believed the rumors and came to the conclusion that she was the one who was off base. She must be wrong, just young and prudish – and so she went ahead with her own introductions to sexual activity. The adult who was rumored to be involved in two affairs simultaneously was myself. I tell you that so that you can see the extent of the damage that is being done to our students and to us, and realize how hard it is for them to develop their standards here at Emma Willard.

There have been faculty-student affairs this year – and other years. Teenage girls fantasize about sex anyway, and build romantic tales. Given the fact that some of their rumors and tales are true, we should not be surprised to find that they themselves believe they are all true, and are therefore confused about our standards and values – which, whether we like it or not, become one of the models for their own.

Now you know the problem – let us set about solving it. Let no one of us ignore it, try to say it isn't true, or play silly political games with it. It is true; it has been established as true beyond the shadow of a doubt, and it must be dealt with.

First, let us acknowledge right now that whether we want it or not, whatever our educational philosophy, however much we deny it, we are role models for our students. If you do not wish to be a role model, get out of education. Youth by its very nature models itself on its elders, particularly those in authority such as parents and teachers. Once we are professional educators, our only choice is to decide what kind of a model we wish to be, and to work to see that we are perceived that way. Given the situation here we must be very careful that the warmth we wish to portray is not seen as sexual advance. We must be careful how and how often we kiss and hug students. We must be sure that love, understanding, and responsibility are demonstrated and spoken by us as an integral part of sexual intimacy. Our private lives and sexuality must be kept discrete and private. We must examine ourselves, know our weaknesses and not play them out or seek solutions for them in our students. We must always remember that our students are children, not adult companions.

I was distressed at the current faculty workshop to hear so many say that they were not role models for students, and then add that they themselves did not know what values they wanted to pass on to youth so would rather leave them free. Everyone of us is a role model. Period. If you do not know what values are worth perpetuating in the next generation, please get a job outside of education. You are missing an essential ingredient that is necessary to every teacher. Values

such as respect for others, responsibility, truthfulness, kindness, selflessness, hopefulness and self esteem are worth passing on to the next generation. We tell our prospective students and parents that we foster them. If anyone here does not believe in these values, and many people in the world don't, then move on. Let Emma Willard be what it stands for and find another calling where you can be what you stand for. Do not be afraid that you limit the freedom of youth by teaching them values. Human freedom is not like that. If you will not teach youth values, then you are teaching them that there are no values. And that does not leave them free either. We are role models. We have values to transmit. Let us take our positions seriously, examine the validity of our modeling, and be the finest professional educators in the field.

Dr. O'Connor recalled that her address was "received in silence." Other administrators at the time had a mixed reaction to the speech. One shared that the address was given to a "room full of people who were studying their shoes," explaining that "we were uncomfortable about what was being said." The administrator explained that Dr. O'Connor did not have a lot of authority with the faculty given her penchant to "speak in absolutes." Another administrator shared that he thought that her delivery was imperious and threatening and that while the intention of the speech was fine, the content was exaggerated or hyperbole.

In response to Dr. O'Connor's address, the Board of Trustees passed a resolution to convey "unanimous and full endorsement of principles it contains and unanimous and full support for her determination to deal with the issues it raises."

Dr. O'Connor remained at the School for one year following her address. She was succeeded by Robert Parker in 1979. By all accounts, Mr. Parker was described as a young head with "incredible energy." Mr. Parker identified three challenges he hoped to address during his tenure: 1) to increase admission and enrollment rates while still remaining a single sex educational institution; 2) to reinvigorate and strengthen the curriculum; and, of most relevance to this Review, 3) to eradicate "the cult of the male faculty." A former administrator from that era described Mr. Parker's perspective, noting that Mr. Parker did not have "any proof that faculty were actually stepping way over the line" but that he had identified a couple of faculty members, including Bernie Weinraub, below, whose behavior was concerning. The former administrator described the balance in addressing concerns about faculty-student interactions, "At Emma, we champion and value and talk about close faculty relationships; you don't want to be suspicious every time you see [a student and faculty member] talking, especially in public settings. We also value student privacy and did not want to pry into the student's lives based on rumors." The former administrator added, "It was very clear that nothing of this nature was going to be tolerated in Bob Parker's administration, but he did not have proof to do anything."

With respect to the "cult of the male faculty," a term shared with us by both alumnae and administrators, one former administrator observed, "The girls who were very, very bright gravitated to these guys. In their classes, they would present material that was not appropriate for the age they were teaching given the level of reading and thinking. The faculty would lecture and preen, and the very brightest girls would love them because it felt like they were in college seminars." Another administrator observed, "It became immediately apparent that they had their

cadre of girls. The girls enjoyed vying for their attention . . . and it was very apparent to some of us that some of these men were just relishing it a little too much.”

A former administrator shared the perspective that there were too many students and too many faculty members: “The place was just wide open in the 70s. People were more focused on the drugs, which were a major problem. A lot of good people who would have operated in a different way, and a lot of good people who should have known better fell under the sway of, ‘well, it is the way of the 70s.’”

First Report 1970s – Male Administrator

We received one third-party report from an alumna from 1970 who recalled observing a male administrator take the hand of another alumna from 1970 at an assembly and run outside together. She inferred that they were going “into the bushes.” The administrator was known to be one of a group of male faculty members and administrators referred to as the “Gate House Gang.” We reviewed the administrator’s personnel file, which did not reflect any reported misconduct or disciplinary action. He resigned from the School in the early 1970s.

Second Report 1970s – Male Administrator

We received one third-party report from an alumna that a male employee, who served in several roles at Emma throughout his tenure, was involved with a student from the class of 1970. The alumna said sometime after graduation, she learned about the conduct from another student. The alumna thought that the student had been enticed into the relationship with the teacher. We tried to contact the student of concern, who did not respond to our outreach. We reviewed the student file and personnel files, neither of which contained any contemporaneous documentation of any concerns.

Third through Eighth Reports 1970s – Mark Johnson³⁷

Mark Johnson was employed at Emma Willard from 1964 to 1973, and during that time, he taught history and religion, was the sophomore class advisor, and served on the long-range planning committee. Mr. Johnson lived in multiple residences on campus during his tenure, including the Gatehouse. We received multiple first person accounts by alumna of inappropriate sexual contact with multiple students during his tenure.

Third Report 1970s – Mark Johnson

An alumna from 1970 (the complainant) shared her experiences with Mr. Johnson, who was her faculty advisor during her sophomore year and her history teacher during both her junior and senior years at Emma. The complainant said that “looking back over the years,” Mr. Johnson started “to groom me the winter of junior year.” The complainant said Mr. Johnson sent her inappropriate correspondence between junior and senior year, including a birthday card over the summer that said he thought she was a beautiful woman.

³⁷ Johnson’s conduct spans the late 1960s and early 1970s.

The complainant said she is “a little vague on how it started exactly.” She said Mr. Johnson did not communicate with her by phone or written note when she was on campus; she said she would stop by Mr. Johnson’s office, which was in the basement of the Slocum classroom building, and where, she said, most of their encounters occurred. She noted also that Mr. Johnson shared an office with another faculty member, who “was never there.” The complainant said she does not remember meeting Mr. Johnson at other locations on campus. She also briefly described one time, most likely during her senior year, when she was upset about something unrelated and she went to talk to Mr. Johnson in his office and it “became a physical encounter.”

The complainant said that during her senior year, she and Mr. Johnson developed a sexual relationship that at the time she thought of as consensual. When she was 17 years old, toward the end of her senior year, they engaged in sexual intercourse off-campus. The complainant said that during spring break of her senior year, she and a group of four or five students traveled out of state with an Emma Willard gym teacher, and that it was understood that the teacher “would not pay that much attention” to what the students did. The complainant said Mr. Johnson was also in the same area at the time and told her he could easily get away from his family by saying he was conducting work for admissions. She said Mr. Johnson picked her up and took her to a hotel where they had intercourse for the first time.

The complainant said that following spring break, she and Mr. Johnson had intercourse at other off-campus locations. She said she met Mr. Johnson in a parking lot and then they went “to some remote park” “in a very rural setting,” noting that that may have been the only time she and Mr. Johnson had intercourse in New York following spring break. The complainant said Mr. Johnson’s office had a door that closed, but they never engaged in intercourse in his office.

The complainant said she turned 18 in June 1970, the month she graduated. After graduation, during the summer of 1970, Mr. Johnson drove to her home state where they met at a motel before she left for college. She said Mr. Johnson also visited her at college once during the late fall or winter of 1970-1971, and after that visit, she never communicated with him again.

The complainant said she did not disclose what happened with Mr. Johnson to anyone at Emma Willard either during or after the relationship. She said the first time she talked about the relationship with anyone was when she backpacked in Europe during the summer of 1972 with a close friend from Emma Willard. She said that on the trip, her friend asked whether the relationship with Mr. Johnson led anywhere, and when she indicated that something happened, her friend was shocked.

When asked whether Mr. Johnson treated her differently in public than he did other students, she said, “I would have liked to think no, but I’m guessing a lot of people guessed at least that he liked me. Some more mature girls may have thought something was going on.”

The complainant inferred from comments Mr. Johnson made to her that he was involved with other students. She said Mr. Johnson made statements like “if a girl got pregnant, he knew what to do about it” and that he knew a “woman in Troy who could take care of it.” The complainant thought she “was not the first or last.” The complainant said that a number of students stopped by Mr. Johnson’s office regularly and said she believed Mr. Johnson was involved with other young women.

The complainant said that looking back, she thinks she “got off pretty easily.” She said that she did not feel like she was traumatized, but that she was “appalled looking back” about “how risky” her behavior was. She explained that she “was among the lucky ones” because she was “not damaged by it.” She also added that the way people think of relationships between teachers and students now is “night and day different” from how people thought of such relationships at the time.

Fourth Report 1970s – Mark Johnson

The alumna from 1970 also shared a concern that Mr. Johnson was engaged with an alumna from the class of 1968. The 1970 alumna recalled a time during the spring of her junior year when she visited Mr. Johnson’s house on a Saturday with a friend, who “really liked” Mr. Johnson. She said they went to Mr. Johnson’s house and “heard giggling upstairs” from Mr. Johnson and a recent graduate, the 1968 alumna, who was on campus for something that weekend when Mr. Johnson’s wife was out of town. We contacted the 1968 alumna, who returned our outreach. While we were unable to interview the 1968 alumna because of her travel schedule, the alumna confirmed to us that she “was engaged in a relationship with one of [her] professors” and that she now “consider[s] it abuse.”

Fifth Report 1970s – Mark Johnson

An alumna from 1972 (the complainant) shared her first-person account of her experiences with Mr. Johnson. She said her relationship with Mr. Johnson began during her junior year (1970-1971) when she was either 15 or 16 years old. She explained that as a student, she thought Mr. Johnson was old, likely in his 40s. She recalled that Mr. Johnson had two elementary school-aged children, and he would talk to her about them “every now and then, which [she] thought was odd.” She also said that it now seems “very creepy” to her that he had young children.

In recalling how the relationship was initiated, the complainant said she first noticed Mr. Johnson would “be on campus for various things” and she did not know whether he “just showed up in relation to me.” She said that early on, they both engaged in the same campus activities, and he would comment on her physical appearance. She said that she would meet Mr. Johnson in Slocum Building in his office during the day “for something related to class.” Mr. Johnson would encourage her to return to his office in the evening or after dark, typically on weekdays. She said she would visit before lights out and curfew, usually after dinner and would walk through the tunnels, which felt “haunting, eerie and bad.” The complainant explained that she was able to visit Mr. Johnson because she was socially “isolated from other girlfriends.”

The complainant also described times when she was at Mr. Johnson’s home with him, sometimes alone. She explained that sometimes Mr. Johnson’s wife would step out of the room. She recalled a specific incident where he invited her upstairs “on some pretense” and “literally pulled [her] into his bedroom” where he showed her magazines with pictures of women without bras, but who were not naked. The complainant said she did not get into bed with him; she “was creeped out and [she] left.” She said they may have been sitting on the edge of the bed when he touched her breasts and asked her how it felt. She said she was uncomfortable and left.

The complainant said that “incrementally over a long period of time,” Mr. Johnson engaged in other touching behavior. She recalled that the touching progressed and included hugging, stroking her back, touching her buttocks, and “reaching underneath.” The complainant said the touching “was startling, but kind of unspoken.” She explained that she and Mr. Johnson “never talked” about what happened.

The complainant described the “power dynamic” that existed, and said that at the time, she thought it was “cool” that Mr. Johnson was taking an interest in her. She said she called him “Mr. Johnson” and he would ask her about her work “as if this was about a teacher relationship.” The complainant said he also used a journal as “another way to get to me.” She said she would write about things in a journal, and he “pushed [her] to share more personal things,” including sexual themes.

The complainant said she made two “pitiful efforts” to disclose what was happening with Mr. Johnson to two employees. She described one instance where she left school without “a particular plan” and ran into an administrator at a local restaurant with his family. The complainant recognized that he “had no clue what [she] was trying to do” and told her to leave and to come to his office the next day. She recalled “boo-hooing in his office,” and thinks that he may have given her “a consequence” for being off campus. The complainant said she does not recall what the administrator said to her and also noted that she does not think he asked her whether anything was wrong.

The complainant said the administrator “should have known to ask questions” about Johnson’s relationships with students. She said it should have been “on his radar.” The complainant explained that she thought it was “odd” that Mr. Johnson was the only faculty member with an office in a “remote part of a building” where “no one ever seemed to be around” and that campus security should have noticed that the lights were on in Mr. Johnson’s office. She also thought others “should have known to ask questions about my changes in behavior” (including a decline in her grades senior year) and “about what was going on with me.”

In another instance, the complainant said she tried to confide in a female teacher, but refrained from disclosing the relationship. The complainant noted that she did not have much of a relationship with this teacher, but the teacher knew she was friends with Mr. Johnson. The complainant visited the female teacher one evening for the purpose of confiding in her, but, she said, the experience was “awkward and odd and off putting” and she felt that she “couldn’t trouble [the female teacher] with my troubles.”

The complainant described a time more recently where, she said, a faculty member and his spouse attended a reunion class dinner and made a statement indicating “in this oblique way” that they were aware of sexual relationships and improprieties involving employees and members of the Class of 1970. The complainant shared that she was “appalled” and noted that “clearly they knew at some point that something had gone amuck.” She said that she did not know whether the faculty member and his wife knew of sexual relationships between faculty and students when they were on faculty at Emma Willard or learned subsequently.

The complainant shared that as an adult, she shared with a group of friends from Emma what happened with Mr. Johnson. She said her friends were “stunned” and told her they felt as if they

“lost track of” her when she was a student and that she “stopped being friends with” them. She also said her friends were “not surprised.”

Sixth Report 1970s – Mark Johnson

We received a third-party report from an alumna from the class of 1969, who shared her observations regarding one of her classmate’s interaction with Mr. Johnson. The alumna noted that the relationship between Mr. Johnson and her classmate was not as widely acknowledged as other faculty-student relationships and recognized that Mr. Johnson may not have engaged in inappropriate contact with the young woman while she was a student, but the alumna noticed her classmate spent a lot of time with Mr. Johnson, which she found odd at the time. She said her classmate would talk about having dinner at Mr. Johnson’s house. The alumna explained that by the time she was a senior, there was less supervision and it was not unusual for someone to be missing in the evening; she said there were more places students were allowed to be.

The student file of the 1969 alumna includes her own post-graduation reference to the relationship with Mr. Johnson. In response to a solicitation for updates for the Student Bulletin in February 1983, the 1969 alumna responded:

Dear friends class of '69 - We had a tumultuous senior year and for that reason I've kept relatively secret over the years. With hindsight I feel we were subjected to some extraordinarily insidious behavior on the part of some of the male faculty and I hasten to suggest that my reason for not contributing more to the school which did provide a good education in book learning.

The same page of the student file includes handwritten notes by Emma Willard employees. The first note said, “Margery, this needs your attention! Yikes!” A note in response said “To Jack Easterling, Could you suggest any reasons for these comments? Not sure how to respond to her!” The unsigned note underneath said, “Continuous course of flirtation by a group of faculty none of whom are here now. running rampant. Dietel looked the other way, as did Collins. very tacky.”

The 1969 alumna responded to an undated alumnae questionnaire for the class of 1969. In response to the question, “What have you done in the past that you consider important that you can tell us about (education, volunteer activities, jelly-making)?,” the 1969 alumna wrote, in relevant part, said, “My rising above bad marriage & bad love affair w/ a teacher.” She identified her favorite memory at Emma Willard as “When I returned after graduation and told ‘Mr. Johnson’ that I knew about his sexual trips with all the other girls.”

Seventh Report 1970s – Mark Johnson

We received an anonymous online submission from an individual who identified herself as an alumna from the late 1960s. She said that she “had idolized [Mr. Johnson] for being a teacher who challenged us and respected the discussions generated in his class” and said he “had been a good listener” in his office during her senior year. She described her experience with Mr. Johnson, which involved a time when she returned to campus in the fall following graduation and said she visited Mr. Johnson at his carriage house by the back gate. She said they took a walk near his house, and he pressed her up against a tree and described his arms as “strong.” She

said his penis was erect and he said to her, "[T]here, now don't you feel better? Don't you like that?" She said that when a "car came along from the gate and the lights of the car shown towards the tree," "he grabbed me to move me out of the path of the light." She explained that she "got away and then still relied on [Mr. Johnson] for a ride to be dropped off at the bus stop in Troy. I waited for an hour in the snow. I was frightened, crying, angry, disgusted, withdrawn." She said she did not like what happened.

Eighth Report 1970s – Mark Johnson

In an anonymous written submission, an alumna from the class of 1970 (the complainant) who had Mr. Johnson for history during her junior and senior years, described an incident with Mr. Johnson that happened when she was 17 years old. The complainant wrote, "Sometimes in class if we were around the long table in the library and I happened to be sitting next to him, he would put his hand in my underpants and fondle me while teaching." She said that in response to her concerns about his wife learning about what was happening, he told her, "What she doesn't know won't hurt her," and she said, "He told me he would deny this relationship if discovered." The complainant described how what was happening affected her and said, "[T]he last 6 months of senior year I was completely distracted and could hardly work."

The complainant also described things she observed. She "suspected" that Mr. Johnson "was simultaneously involved with another classmate" from the class of 1970, "[a]nd the following year, I actually saw him kissing a junior as I came down the stairs at a gathering at his home."

The complainant said she was dreadfully silent for two years, and later told a few classmates over the decades. She said she talked about her anger, and how what happened upset her, to Mr. Johnson twice—once in the late 1970s and then once in the 1990s, when, she said, Mr. Johnson apologized for what happened. The complainant said that when she was a student she never told the head of school what happened, but, she said, she told the head of school in the 1990s. The complainant said that the "disdained" and "disinterested brush off she received in response was almost as bad as the original experience." In a letter to Robin Robertson dated October 23, 1991, however, the alumna wrote:

I am writing to thank you for receiving me and my hurt regarding one big aspect of my Emma Willard life. Over the years that one unfortunate experience has colored much of my memories of high school. It also left me with a lack of trust in all girls' schools. For me our talk provided a healing. Thank you for listening, thank you for sharing your perspective, thank you for being a great principal - and thanks for being a woman!

...

And at the same time I was hurt. Yes, life does hurt but I would not want any Emma Willard student to make the same mistake I made. I would not wish to hear that an Emma Willard student was put as I was in the position of becoming sexually involved with a married faculty member when she knew it was wrong but had no tools, no understanding to say the profound word "NO!" That's why I called you. I wanted you to keep a wary eye on male faculty members (females

too) and their friendships with students. I am relieved to hear that the Emma Willard that I knew in the seventies is a very different creature in the nineties.

I want to acknowledge that even though you are certain that student/faculty boundaries are absolutely clear I also know that these relationships can be fragile, slippery, and very secretive. I imagine that Mr. Dietel would be shocked and deeply hurt to hear of student/faculty liaisons.

In later correspondence, dated September 5, 1998, Dr. Robertson wrote to the complainant to share the dismissal of Scott Sargent and Scott Barton. She wrote, "I have enclosed a letter I wrote to the community in March."³⁸ You may recall we had a lengthy conversation about a similar situation some time ago. Your thoughts made it easy to act quickly and decisively."

Review of Mark Johnson's Personnel File

On June 19, 1970, the head of school (Dietel) wrote an unqualified letter of recommendation on behalf of Mr. Johnson. While the file does not reflect contemporaneous documentation of any concerns about Mr. Johnson's conduct with students, Mr. Dietel did note, an undated letter of recommendation addressed "To whom it may concern," about Mr. Johnson:

[E]specially effective...informal and unofficial counsel of the young. His home is the center for the non-academic life of a significant number of students. He and his wife had made our girls welcome at all hours of the day and night and they have reciprocated by their love of the Johnson family.

Mr. Johnson resigned in a letter dated March 3, 1973. In the letter, Mr. Johnson wrote, "I'm sorry that we have not had a chance to talk personally about this, but the whole issue came to a head very quickly during the past week or so." The letter does not provide any additional context.

Contact with Mark Johnson

We contacted Mr. Johnson, who initially agreed to speak with us as part of the review, but later declined to participate in the review. Mr. Johnson wrote,

Thank you for your efforts to contact me.

After considerable deliberation, I ask you to take me off the list of those who you are inviting to participate in the Emma Willard Review.

I will always love EWS and treasure the years I spent there. However, I am now a half century and several lifetimes removed from that reality. And, I have learned from experience that my 80 year old brain cannot be trusted to process or remember details without distortion and drawing huge blanks. Consequently, I can't depend on my memory to create even a partially accurate picture of people

³⁸ Although the letter is not in the student file, the head of school is likely referring to the March 9, 1998 letter she sent to the Emma Willard community concerning the termination of Scott Sargent and Scott Barton.

and events that happened 50 years ago (nevermind events that occurred last summer). It wouldn't be fair to your process or honest for me to provide you evidence that I know beforehand is corrupted.

Your cause is noble, so I hope that you are successful in achieving your goals.

Ninth and Tenth Reports 1970s – Fred Moon

We received one first person account and multiple third-party reports from alumnae in 1972 regarding inappropriate sexual relationships between two students and Fred Moon, the School's treasurer and business manager from 1970 to 1975. During his tenure at Emma, Mr. Moon was married with children and lived on campus.

Ninth Report 1970s – Fred Moon

In the first person account, an alumna from 1972 (the complainant) told us that she “was courted by a member of the administration, Fred Moon,” who was twice her age and whose young children she babysat once or twice. She said she met Mr. Moon during her junior year when they were both in an on-campus play. The complainant said the relationship was not romantic at that time, but later developed and ended up “a sexual thing.” She said she started meeting Mr. Moon in his two offices, one in the basement of Sage, the other in Wellington Lay, which was under renovation at the time and “very convenient[ly]” only used by Mr. Moon. The complainant said they also met on the tennis courts and at a nearby cemetery. (Another alumna recalled hearing a rumor about the student and Mr. Moon engaged in sexual contact in the cemetery.) She explained that she was able to “disappear all the time” because students’ “whereabouts weren’t clocked.” The complainant said students were free to come and go during the afternoon and weekend and noted that she was not required to check in with her housemother. A classmate and close friend of the complainant shared with us that the housemother seemed “pretty out of it” and seemed to be “drinking.”

The complainant described the relationship with Mr. Moon and said that at the time, she was “totally in love with him” and thought it was “a great love.” She said she was “really very romantic about it,” and “wrote poems and diary entries” about him. While she was a student, she and Mr. Moon engaged in “everything else” except sexual intercourse. The complainant said she continued to see Mr. Moon after graduation. He visited her at her parents’ home and at her college, and she visited him at his parents’ home. She said they engaged in sexual intercourse, but not until after her graduation from Emma. She believes she was 18 years old at the time and said it was “terrifying” because he was the first person with whom she had sex. The complainant noted also that she “was very interested.” The complainant said that by Christmas following her graduation from Emma, she realized the relationship with him “was not a good thing for [her].”

The complainant said she told her roommate about the involvement with Mr. Moon, but she did not tell “anyone in authority at the school.” She said, “It was purely him,” but added, “And my stupidity.” In response to our inquiry about whether Emma should have been aware of Mr. Moon’s conduct, the complainant said she does not think that the public interactions between her and Mr. Moon would have caused anyone to take notice. She also said, “It was the 70s, so all the air felt like you can do anything with everybody.” She added that Emma was “an educational

institution that prided itself on being a place for thinkers and progressive thought. There was a certain looseness that masked inappropriate conduct.” She also said that she did not view Mr. Moon’s conduct as “manipulative, forceful, or coercive.”

The complainant also informed investigators that she later discovered through her roommate and close friend that Mr. Moon was involved with another classmate, which contributed to her realizing the relationship with Mr. Moon was “not good.”

Tenth Report 1970s – Fred Moon

In a third-party report, the roommate of the complainant, above, shared that she was aware that Mr. Moon was engaged in a relationship with both her roommate and another close friend in the class of 1972. She said that she was aware of the relationships as a student, but she did not inform either student of Mr. Moon’s relationship with the other until after graduation. She described knowing as a “heavy burden to carry.” The complainant also explained that she did not make a report of the conduct to anyone at the School because she “always felt [she] had to leave it up to [her friends] to make the decision to report.” When asked whether anyone in administration knew of the conduct, the complainant said, “How could they have known?” She did believe, however, that “the drama people” should have had “some inkling,” she elaborated, “It should have been apparent to someone.”

We received two additional third-party reports, both from alumnae who confirmed that they were aware of Mr. Moon’s relationships with the two classmates described above.

A review of the relevant student and personnel files do not include reference to Mr. Moon’s inappropriate contact with students. There was also no indication in the file as to how Mr. Moon came to leave the School. Some faculty and administrators at the time, however, recall some concern. One administrator recalled a student (the second complainant identified above) “dotting on [Mr. Moon] a lot back in 1972.” The administrator said they recalled thinking, “Why is she around his office so much?” Fran O’Connor also recalled that Mr. Moon was “having an affair with a girl he used as a babysitter.”

Eleventh Report 1970s – Male Faculty Member

We received two third-party reports about a male faculty member, now deceased. The third-party reports were raised by an alumna from 1974, who recalled that the teacher was very popular with the students, and an alumna from 1999, who was aware of rumors of inappropriate conduct. The 1974 alumna observed that the teacher “had his girls” and described the girls who surrounded the teacher as “a harem.” Neither alumna identified a potential complainant by name. One former administrator told investigators that at the end of each trimester, the teacher gave a lecture to which he invited faculty. The administrator described the teacher’s lectures as “showmanship” and “provocative.” She said, “He would be open about his own sexual practices,” and the message was, “You are sexual beings; I’m a sexual being.” The administrator commented that it was “beyond what should have been happening,” and also noted that “he had pictures of girls in his office and in his house.” The administrator observed, “It didn’t look right.”

We reviewed the teacher's personnel file, which did not reflect any reported misconduct or disciplinary action. The file contained a writing by the teacher, completed for the Faculty Curriculum Committee. In response to the question, "What outcomes are desirable for all students in an Emma Willard program to promote physical fitness and health education?," the teacher wrote, "A real - rather than assumed - conviction that a young woman has a right to feel sexual, to appear to be erotic, to be proud of her sexuality and to disregard those peers and adults who cannot themselves adjust comfortably to the fact that she possesses a sexual nature and is proud of her body."

Twelfth and Thirteenth Reports 1970s – Graham Marlette

We received two first person accounts and three third-party reports about Graham Marlette, a teacher in the theatre department from 1973 to 1975.

Twelfth Report 1970s – Graham Marlette

In 2014, a student from the class of 1976 (the complainant), who had Mr. Marlette as an instructor for multiple classes and withdrew from the School in the fall of her senior year, reported to the School, and later to us, that Mr. Marlette engaged in inappropriate contact with her beginning when she was 15, and continuing until she was 17 years of age. The complainant recalled that Mr. Marlette kissed her in his basement office below the stage and had sex with her on multiple occasions in his faculty apartment. She said that she received treatment from the health center in connection with the sexual contact. The complainant said she ended the contact with Mr. Marlette either the end of her junior year or the summer of 1975. The complainant confronted Mr. Marlette years later and asked him, "Why did you feel it was ok?" She recalled that Mr. Marlette said, "It was the 70s." The complainant also said she later informed a former head of school about Mr. Marlette, explaining that she had been "taken advantage of by a teacher and dropped out." In 2014, the complainant reported the conduct to Trudy Hall.³⁹ In May 2015, the School reported this matter to the Troy Police Department as part of our initial engagement with the School.

The complainant also reported to us that Mr. Marlette was involved with another student whom she declined to identify by name.

We also spoke with two alumnae who corroborated the relationship between Mr. Marlette and the complainant. One alumna, who was aware of rumors of inappropriate conduct between the complainant and Mr. Marlette, reported that during her first year in college, Mr. Marlette confided in her about his relationship with the complainant.

Thirteenth Report 1970s – Graham Marlette

An alumna from the class of 1975 (the complainant), who had Mr. Marlette as an instructor for multiple courses, reported through email that Marlette "raped [her] in his home on campus in either 1974 or 1975." She wrote that it was a one-time occurrence, but that she did not recall which year it occurred. The complainant did share, however, that she was aware of "others who he also raped." The complainant declined to speak with us as part of the review, explaining that

³⁹This report was one of the two reports that served as the impetus for our initial engagement in 2014.

the process of disclosure had provided her with emotions she preferred to work out on her own. She queried, “Would you categorize the trauma of the incident worse or the aftermath having to see that teacher at school for the rest of your years there as worst or the thought ‘what if it hadn’t happen’ vis a vis every male-female relationship you have had subsequently the worst part of the ordeal?”

Potential Other Students

An alumna from 1974 shared her suspicions that Mr. Marlette may have been involved with at least two students. Another alumna from 1974 suspected that Mr. Marlette may have been involved with a third student. We contacted that student, who denied any inappropriate conduct by Mr. Marlette.

Review of Personnel File

We reviewed Mr. Marlette’s personnel file, which did not reflect any reported misconduct or disciplinary action. There was no additional information in the file that would provide an explanation as to the nature of Mr. Marlette’s separation from the School, which occurred under Dr. O’Connor’s tenure. The file contained an unqualified letter of recommendation by Dr. O’Connor, who shared with us that she would not have written the letter if she suspected Mr. Marlette of any inappropriate conduct with students. We spoke with two former heads of school during Mr. Marlette’s tenure. Neither head of school recalled Mr. Marlette.

Fourteenth and Fifteenth Reports 1970s – Malcolm Bird

We received one first person account and multiple third-party reports about Malcolm Bird, a French teacher from 1976 to 1978.

Fourteenth Report 1970s – Malcolm Bird

We initially received a third-party report from an alumna from 1976, who recalled that Mr. Bird was having sex with an alumna from 1978 (the complainant) during the time she was 15 or 16 years old. The alumna said that the complainant and Bird “openly dat[ed]” and held “hands walking across campus.” She commented that “you would have to be blind” not to see the relationship between them.

We later were able to contact the complainant identified by the third-party reporter. The complainant confirmed that “There was a relationship, but it was after I graduated, and definitely inappropriate.” She said that the relationship was wrong and “should not have happened.” The complainant said that she took Mr. Bird’s French class, and when she graduated and went to college, he pursued her. She thought she may have been 17 or 18 at the time, as she turned 18 in the fall after her graduation. The complainant described herself as young, and while “potentially of age,” she “didn’t know what [she] was doing.” She said that the relationship lasted for eight months before she broke it off. The complainant recalled, “I was really tired of being sheltered and going to all girls schools. I wanted to rebel and he was part of that rebellion.”

At the time, Mr. Bird was married and in his forties. The complainant said that Mr. Bird told her he had a relationship with a younger student in the class of 1979. She said that he also told her

that he had lost his job because of the relationship. The complainant explained, “He acted like it was fine – like it was normal; in his mind, I’m sure he would be shocked to this day – it was just a relationship, and he saw nothing wrong with pursuing students.” The complainant reflected on the abuse of his position of trust, noting that because of our patriarchal society, “men don’t see it.” She explained, “As you age, you really do understand our patriarchal society, and how you are preyed upon – it’s just not right.” She said that the relationship was definitely inappropriate – she was clearly a young woman, he was so much older, and that it was not appropriate to approach a former student.

Fifteenth Report 1970s – Malcolm Bird

In addition to the complainant’s account of the student in the class of 1979, we also received two third-party reports about a relationship between Mr. Bird and a student in the class of 1979 (the same student Mr. Bird discussed with the complainant, above). An alumna from 1979 shared with us that her first-year roommate “ended up having an affair with a French teacher.” The 1979 alumna could not remember the teacher’s name, but said he was married to another teacher and had not been at the School very long. The 1979 alumna said her roommate was “interested in” and had “a crush on” the teacher, and the relationship had “a courtship type beginning.” She does not recall how the relationship progressed. She believed the School was aware of the relationship. She said the head of school “ended up finding out about it” and it “came to a head.” The 1979 alumna said the teacher involved was asked to leave. When asked whether she disclosed the conduct to the School at the time, the 1979 alumna said, “Honestly, I don’t remember an adult I would have ever confided in. That’s how disconnected I felt there.”

An alumna from the class of 1978, reported through an online submission that it was “common knowledge” that the 1979 alumna, above, “was having a relationship with a teacher named Malcolm Bird.”

A number of faculty and administrators at the time recalled being surprised and upset by Mr. Bird’s conduct. One administrator shared, “I really didn’t know. When he got fired by Fran [O’Connor], I went home and cried because it upset me so much and I had no idea.” The administrator explained, “The irony of it was that I liked the guy – he was a nice guy, he fit the mold, he was handsome. I was caught completely by surprise – I couldn’t imagine that happening with someone I knew.”

Review of Bird’s Personnel File

We reviewed the teacher’s personnel file, which included an April 1978 resignation stating that the head of school urged him to resign and required Bird to vacate his office. Dr. O’Connor confirmed for us that she “demanded for his resignation” and, at the time of his separation, Mr. Bird told her she was “foolish if [she] didn’t think that was the norm,” referring to student-employee interactions.

The personnel file also includes a note dated September 1978 written by the then-head of school to Bird's spouse who was also a faculty member at the School.⁴⁰ The letter states in relevant part:

I have had a chance now to speak at some length . . . concerning your desire to join in the School's dance classes. There seems no doubt . . . that your presence in those classes is detrimental to [student's name]. I feel that the school has an obligation to the parents and students it enrolls, and cannot knowingly put them in situation which it feels will be harmful to them.

...
I want to make it possible for her to do this without the tension and potential embarrassment of having you there."

* * *

I know you claim that you feel that there is no harm in having the two of you together, but others who are perhaps less emotionally involved in the situation do see the harm.

Mr. Bird declined to participate in our review.

Sixteenth through Eighteenth Reports 1970s – Bernie Weinraub

We received two first person and numerous third-party reports regarding Bernie Weinraub, a history teacher from 1973 to 1984. Mr. Weinraub is now deceased.

Sixteenth Report 1970s – Bernie Weinraub

In 2014, an alumna from 1976 (complainant) disclosed to the School that she had been raped by Mr. Weinraub in the fall of 1976. The complainant explained that Mr. Weinraub had "some cachet about him" and she had taken one course with him. The complainant explained that in the fall after she graduated, when she was 18 years old, she returned to campus for a visit. She said that Mr. Weinraub invited her to spend the night at his house. The complainant reported that while at Mr. Weinraub's house she watched television with him while his wife was upstairs. When he began to retire for the evening, she stood up to say good night and he put his hand in her jeans. The complainant said she yelled out but he told her to be quiet or she would wake his wife. She said she went "numb," and the rest is "surreal."

In either 1981 or 1982, the complainant said that at School fundraiser/alumnae event she made a disclosure to a School employee, who told her "nothing good would come of" making a report to the School, that she would "have nothing to gain," and she should just keep it to herself. Following the publication of Trudy Hanmer's book on Emma Willard, the complainant contacted Ms. Hanmer. Ms. Hanmer encouraged her to report the conduct to the School, and in 2014, the

⁴⁰ The School maintained one personnel file for both Bird and his spouse.

alumna contacted Trudy Hall, whom she described as “phenomenal.”⁴¹ The same year, she sent a private message through social media to Dennis Collins and “heard nothing from him.”

Dennis Collins recalled hiring Mr. Weinraub, but said that he was unaware of any concerns about Mr. Weinraub. During our interview, Mr. Collins said that he did not recall receiving a private message from the alumna from 1976. He explained that he did not know how to use the messenger platform of the social media site. Following our interview, Mr. Collins was able to access the message from the student, which had been sent approximately a year earlier. He then reached out to the alumna to apologize.

Seventeenth Report 1970s – Bernie Weinraub

We received multiple third-party reports about a potential relationship between Mr. Weinraub and an alumna from 1974. Another alumna from 1974 shared her belief that the alumna of concern had been victimized by a teacher, whom she believed was Mr. Weinraub. She described the student of concern as very isolated, and speculated that she was “the perfect victim” and an “easy target.” Two other 1974 alumnae recalled that during the time they were students, the student of concern was open and public about her sexual relationship with Mr. Weinraub. An alumna from 1976 shared that “everyone” at the School knew by the 1974-1975 academic year, “that Mr. Weinraub was doing it with [the student of concern].” A former administrator told us that the student of concern later refused to come to a reunion as long as Mr. Weinraub was on campus, explaining that Mr. Weinraub had “stolen her virginity.”

We contacted the alumna from 1974, who declined to participate in our review. She wrote to us,

I am opposed to this kind of work. In my experience, relationships involving students are consensual, and best addressed by discreet conversations between the school and the parties. We are in danger of creating “victims” everywhere, and then trying to impose extreme punishments on individuals who do not deserve it.

Eighteenth Report 1970s – Bernie Weinraub

We received a first-person account from an alumna from 1981 (the complainant) who described her relationship with Mr. Weinraub. She described boarding school life and said that Emma was a “place where teachers took on a larger-than-life quality.” The complainant said, “I was in a crush with [Weinraub]. I loved when he walked in the room and made a point to go to office hours and sit and chat, but he was never inappropriate. He treated me as a smart student—with respect.”

Describing how her relationship with Weinraub began, the complainant said she wrote to Mr. Weinraub from the end of her first-year in college through her sophomore year. She added, that she pursued him and when she returned to Emma as a college sophomore to visit, she invited herself to stay with Mr. Weinraub. The complainant said Mr. Weinraub met her at the bus station where he kissed her “in a way that was not a student/teacher way.” She described it as

⁴¹ This report was one of the two reports that served as the impetus for our initial engagement in 2014.

“romantic.” The complainant thought of the meeting as “consensual” and noted that she took on “engineering and setting it up.” She said, “We slept together that night.”

The complainant commented that Mr. Weinraub “seemed to regard having sex with former students as a normal thing.” She said, “He didn’t have sex with students while they were students, but it was common for alumnae to come back and try to consummate whatever crushes they had.”

The complainant continued to visit Mr. Weinraub at Emma on weekends and said the relationship “was obvious to everyone as soon as I started coming back.” She explained that he lived in on-campus apartments and she would run into teachers in the laundry room and would eat in the dining hall with Mr. Weinraub. She said, “They all knew we were having affair.” She said, “Everyone knew or should have known.” Regarding the then head of school, the complainant said, “I’m sure he was aware.” She also said that, “Not everything was as it should have been and administrators were often incompetent or turned a blind eye to this.”

She recalled that Mr. Weinraub left Emma Willard at the end of that year. She said she did not know if someone told Mr. Weinraub he had to leave, but did not think it occurred that way because “he would have told [her].” She said, “I think he knew it was better to move on.”

She said that this review was a “catalyst for rethinking” the relationship and caused her to rethink Mr. Weinraub’s “responsibility in that.”

Marriage to Alumna

We received numerous third-party reports regarding Mr. Weinraub’s marriage to a former student; the reports came from alumnae from the classes of 1976, 1980, 1984, and 1996. One alumna said the marriage happened several years after the student’s graduation, but the alumna did not remember if she was aware of the relationship at the time they were students. She noted that “in those days,” there were “lots of flirtations” and students’ interactions with professors were “not well watched.” An alumna from 1984, who was not enrolled during Mr. Weinraub’s tenure, said that, “With Bernie Weinraub, everyone knew.” She said the “campfire gossip” was that he “left his wife to run off and marry a student.” Another alumna from 1996 said it was “reasonably well-known” among students that Mr. Weinraub had “run off” with a student in the 1980s. A former head of school also told investigators that after his tenure he heard that Mr. Weinraub “had a relationship [with] and married a student.”

We confirmed that Mr. Weinraub married an alumna from 1981 during her junior year of college.

Other Conduct

We also spoke with several alumnae who made general statements regarding Mr. Weinraub. An alumna from 1980 said Mr. Weinraub would get too physically close and was a groping kind of guy. She described Mr. Weinraub as always interested in having close relationships with

students that “you just felt like you wanted to leave.” She also noted that, at the time, faculty student relations were “not frowned upon.”

Review of Weinraub’s Personnel File

On April 7, 1978, Fran O’Connor wrote a letter of recommendation on behalf of Mr. Weinraub. Three days after O’Connor’s May 2, 1978 address to the faculty, Dr. O’Connor wrote a letter to Mr. Weinraub warning him against engaging in conduct that may suggest he has inappropriate relationships with students and informing him that he should not place himself in situations in which he is alone with students. She wrote, in whole:

Dear Bernie,

As you know from our several conversations on April 11th, a student has reported actions on your part which can only be described as improper and unprofessional. In the course of talking with her and with another student, I was told that several students are talking about you and your relations with other students, and that a previous Principal had had occasion to question you about similar allegations. Needless to say, these reports are serious and a cause for concern. It is certainly possible that the students are misinterpreting you, exaggerating or fantasizing. However, as I explained, I am in no way able to prove that any of the stories are true or untrue, and thus must warn you that it is now your responsibility to see that nothing in your behavior or deportment gives any cause for a continuation or reinforcement of this type of rumor and allegation.

Specifically, Bernie, you should not allow yourself to be in a situation where you are alone with a student in your home or any other place that could be misinterpreted. Non-classroom assignments that might put you in an awkward situation, for example, Outdoor Living trips or the Outing Club must be avoided. I also suggest that you dress more formally (i.e. tie and jacket or the equivalent) and that you be careful not to use profanity and/or adolescent slang with the students. While dress and speech patterns may not seem critical, they do signal the relationship we expect with others and in the current situation formality seems appropriate.

While there is no way to guarantee that rumors will not be spread, precautions such as these should help. If the precautions are not taken and rumors start again, then for the sake of your reputation and that of the school, I would have to take whatever action I deem necessary to protect the interests of the school. We both know how difficult and awkward this situation has been. If you wish to discuss it with me further, I am available at your convenience.

In September 1978, an academic administrator wrote to the head of school about a “damaging report circulating in the dorm” concerning Mr. Weinraub. The note to the head of school said that an unnamed houseparent reported that students on her hall told her “that hardly one of

Bernie's classes went by without his making comments of a sexual nature." The note indicates that the administrator discussed the concerns with Mr. Weinraub, who denied making comments of a sexual nature except where they may be related to his teaching. The administrator revised his memo to the then-head of school to acknowledge that a particular course would necessarily involve some discussion of sex. The administrator memorialized that he reminded Mr. Weinraub that students "are fascinated by any gossip regarding sensitive subjects and that this is one of the peculiar hazards of the teaching profession. [The administrator] stated that [Weinraub] must be extra careful to protect himself in this regard in view of the students' inclinations and of the previous year's situation."

In December 1983, Mr. Parker wrote a letter of recommendation on behalf of Mr. Weinraub praising his teaching and remaining silent on any concerns related to interactions with students. As outlined below, Robert Parker, Head of School in the 1980s, granted Mr. Weinraub a sabbatical, and told Mr. Weinraub that he should use the sabbatical to find new employment. In March 1984, Mr. Weinraub submitted his notice of resignation.

Nineteenth Report – Male Faculty Member

We received one third-party report about a male faculty member. An alumna from 1978 submitted an online submission alleging that a friend, whom she identified by name, "had a sexual relationship with a gym teacher" during their senior year. We tried to contact the alumna of concern, but she did not respond to our outreach.

We reviewed the teacher's personnel file, which included a May 1978 resignation effective the end of the semester. The file also includes a letter of recommendation written by Fran O'Connor. Administrators from the time recalled that the teacher was very young and "treated students like peers," and that it was "common knowledge that he had overstepped his bounds and that was why he ended up leaving."

1980s

1. Overview

Through our review, we received seven reports concerning seven respondents from the 1980s. None of the reports came from complainants, five of the reports came from third-party reporters, and two of the reports were submitted anonymously with no ability to ascertain the identity of the reporting party.

2. Applicable Policies and Laws

In the 1980s, the School had no written policies that addressed sexual or gender-based harassment or violence or child abuse. The School did not have a written policy regarding sexual relationships between employees and students.

During the 1980s, under the New York Penal Code, a person was incapable of consent to sexual intercourse when he or she was less than seventeen years old.

In the 1980s, the New York Child Protective Services Act continued to require “school officials ... having reasonable cause to suspect that a child under the age of eighteen years has had serious physical injury inflicted upon him by other than accidental means, or whose condition gives indication of other serious abuse or maltreatment” to report the abuse.⁴² In 1985 and 1988, amendments to the Child Protective Services Act further expanded the list of individuals required to report child abuse or maltreatment.⁴³ The 1988 amendments also expanded the definitions of “abused child” and “maltreated child” to include handicapped children and added the requirement that schools must provide written information about reporting requirements to new employees.⁴⁴ As noted above, however, the reporting requirement was limited to suspected abuse or maltreatment by a parent or legal guardian.

3. School Leadership

As noted above, Robert Parker was Principal from 1979 until his death in September of 1986. After Mr. Parker’s death, Trudy Hanmer served as the Acting Principal for the 1986-1987 academic year. Philip S. Deely served as the Head of School for a short term, from 1987 to 1989. The Board of Trustees again asked Ms. Hanmer to serve as the Acting Head of School from 1989-1990, while a national search was conducted for a new Head of School.

⁴² 1969 N.Y. Laws 1016-17, as amended by 1977 N.Y. Laws ch. 518.

⁴³ The 1985 and 1988 amendments to the Child Protective Services Act expanded the reporting requirement to include volunteers in residential care facilities, providers of family or group family day care, and employees of residential day care facilities. 1985 N.Y. Laws 2888-89; 1988 N.Y. Laws 2784. Provisions related to abuse in residential care situations were eventually moved to their own subsections in 2008 and then repealed in 2012.

⁴⁴ 1988 N.Y. Laws 2782-84.

4. Summary of Information Gathered and School's Response

During the 1980s, Mr. Parker shifted the role of the faculty and the composition of the houseparents at the School. An administrator explained, "The shift that Bob made was analogous to the shift that Bill Dietel made." The administrator elaborated, "Bob wanted to change the boarding school life because he felt it was too removed from the rest of the school" and the houseparents at the time "were really not terribly approachable." Mr. Parker wanted faculty more involved in the dorms, and he hired many single, younger women to serve as houseparents. The administrator observed that the switch from "stern white-haired matrons" to 25-year old women "who think they are pals" was an "overcorrection." As outlined below, a number of concerns were raised in the 1980s about how to set professional boundaries between young female houseparents and their charges. In some cases, the reported boundary violations escalated to reports of sexual relationships between houseparents and students or recent graduates.

There was no formal policy or process in place in the 1980s for responding to concerns about sexual harassment or abuse. Under Parker's administration, however, both Jack Easterling and Trudy Hanmer were asked to meet with young male faculty members to address appropriate student-faculty relationships. Administrators recalled cautioning faculty members to not be friends with students, even where they were close in age to one another. Similar conversations were held with young female houseparents. An administrator observed, "It was all under the same umbrella – teaching people how to be adults in an adolescent moment." Administrators recalled meeting with individual houseparents to provide advice ("don't sit on a student's bed and just shoot the breeze with her"), and in some instances, expectations for professional behavior were documented in an employee's file.

First Report 1980s - Male Faculty Member

We received a third-party report about a male faculty member. An alumna from the class of 1980 told us that she believed her roommate had a relationship with the teacher. The alumna recalled that her roommate would visit the teacher in his faculty housing after hours, and sometimes not return until the next morning.

We reviewed the personnel file, which did not reflect any reported misconduct or disciplinary action.

Second Report 1980s - Male Faculty Member

We received third-party information about a male faculty member. An alumna from the class of 1980 reported that the teacher had a lot of relationships with students who boasted about "after hours" visits with him. Another alumna from 1999 reported that the teacher had impregnated a student in the 1980s prior to graduation. More than one administrator from the 1980s shared that the teacher, who was married with children at the time, was rumored to be involved with a student from the class of 1983, whom he subsequently married. Administrators recalled that the teacher was fired because of his contact with the student.

School records reflect that the student did not graduate. There was no information in the personnel file that would confirm the relationship or the circumstances of the termination, but we

were able to access information online that confirmed that the teacher and a former Emma Willard student, both of whom are now deceased, had two children together. The personnel file also included reference to two incidents for which the teacher was reprimanded. In an April 1982 letter, the head of school reprimanded the teacher who chaperoned a school trip on which he allowed students to smoke. The head of school noted that the smoking led to student consuming alcohol and “other rule violations.” The head of school warned the teacher that he would not tolerate a repeat of the teacher’s poor judgment.

In November 1982, the teacher was again reprimanded for allowing students to work on a project late at night—between 1:20 and 3:00 a.m., which was against the residence hall rules. The head of school wrote again to the teacher and stated that he “thought we had an understanding that you would exercise care in the discharge of your duties so as not to compromise students or associate yourself with them in violating school rules.” The head of school warned the teacher that should he continue to be complicit with a student’s rule violation, he would be terminated.

In response to these concerns, one administrator recalled the head of school having a “very Dutch uncle kind of stern warning.” The file did not reflect any other reported misconduct or disciplinary action.

Third Report 1980s - Female Faculty Member

We received an anonymous online submission about a female faculty member. The report said that the faculty member reached into her friend's cleavage during a School event, multiple times, and fondled the necklace and the friend’s chest lightly with her fingertips while verbally admiring the necklace. The alumna wrote, “This was in the late 80s and [the teacher] was not much older than we were at the time, but it made my friend so uncomfortable it was definitely disruptive.” The alumna said that her friend felt pursued, and it was definitely disruptive and uncomfortable for the friend, as well as for the alumna. Another alumna from 1999 shared her concern that the faculty member may have had a relationship with a student just after the student graduated.

We reviewed the faculty member’s personnel file, which did not reflect any reported misconduct or disciplinary action. We also spoke to the faculty member to seek additional context, if available. The faculty member was surprised and devastated at the allegation. She described a very clear understanding of boundaries, and provided a concrete example of action she had taken to elevate concerns about the professionalism of a co-worker.

Fourth Report 1980s - Female Houseparent

We received a third-party report from an alumna from 1987 about a houseparent. The alumna reported that she entered the houseparent’s bedroom to borrow a typewriter and found the houseparent naked in bed with a recent graduate of the class of 1986. The 1987 alumna said the 1986 alumna regularly visited the houseparent on weekend and that from her perspective, the administration had to have been aware of the relationship. The 1987 alumna also recalled a “well-known” affair with another student, likely the class of 1985, during the year before this incident. We made outreach to the 1986 alumna, who declined to participate in our review. There was no information in the 1986 alumna’s student file that reflected any concerns about

inappropriate conduct. There was a note from the 1986 alumna directing that her transcript be sent to the houseparent after graduation; the 1986 alumna also identified the houseparent as first among the faculty and staff that know her well.

A number of administrators from the time recalled recurring concerns about the houseparent's conduct. One recalled that there were "lots of rumors that she had sexual relationships with girls." In contrast, another recalled that her "judgment too loosey-goosey in some areas that were questionable, but not sexual inappropriateness." Several administrators recalled having direct conversation with the houseparent about the nature of her interactions with students, in one instance following a rumor of a relationship with a student in the spring of 1984. Another administrator recalled direct conversations with the houseparent about having students, including the 1986 alumna, in her apartment when they were supposed to be in their rooms. The houseparent was described as "very friendly, very eager, and loved being around the kids," but that "her relationships with kids were in that gray area sometimes – a little too cozy, a little too friendly; she had relationships with kids that were too reflective of a peer relationship, rather than an adult relationship." As one administrator described, "Some of those folks had the ability to gather kids around in almost a hero worship way."

The personnel file contained contemporaneous documentation of concerns about the houseparent's conduct. On May 26, 1984, the Dean of Students reiterated an earlier conversation with the houseparent:

You may not have students waking you up in the morning. You may not leave your apartment open for general use when you are away overnight or all day. Students should not answer your phone except in extraordinary cases. Students may not watch television in your apartment before 3:35 or after 11:00 p.m. As you seek ways to recreate with students you must do so as an adult; not as a peer. You cannot be a buddy to the students, as this sets up an inappropriate role contradiction. Relaxing with students by crossing legs with them, sitting in their laps (or they in yours) or physically deporting yourself as an adolescent creates equally inappropriate contradictions. Your dress is an important consideration in this regard, too.

The intimacy you seek to establish with students should be an intellectual intimacy, not an emotional or physical one. It should be directed toward building the student's self-esteem, and should be tendered from the distance that, as an adult, your maturity and experience affords.

Similar letters followed on May 28, 1984 and June 26, 1984. In the May 26 letter, the Dean of Students questioned whether the houseparent sincerely wanted to change her habits, and whether she should continue at Emma Willard. The June 26, 1984 letter is more specific:

We discussed how you must be firm in upholding dormitory and school rules: your television should not be used by students before 3:35, your hall should be quiet at the appointed hours, etc. The use of your apartment must change altogether. It may not be an alcove or an extension of the students' play space. When you are not there the apartment should be closed or locked. The degree to

which you protect your privacy and you create a home that is truly yours, the more respect that space will be given by students when they are there.

Your deportment and dress are significant ways in which you communicate with students and adults. When you are engaged in physical activity and sports with students then athletic clothing is certainly called for. At no other time, however, should that kind of clothing be worn. You should dress as the professional adult that, as an educator, you are . . .

Probably most central to my reservations about your houseparenting is the quality of your relationships with students. As always seems to be the case, our strengths are also our weaknesses. You are well-liked by many students. But it is also true that you are as much a buddy or a big sister as you are a respected, revered mentor. Your hang-out-with-the-kids or one-of-the-gang approach must not continue. The girls need something better and more special than that.

After a year and a half since our first talk about how you were establishing relationships with students, it does not bode well that you became so glued to one student this winter and spring. The extreme to which that relationship went was reflected in the rumors (whether true or false) that were circulating about it at the time, and this was very destructive to you, the student, and to all of your other relationships, professional and otherwise.

Your caring for this student led you to the situation that developed and seemed to blind you to the negative impact it was having everywhere. This is troubling indeed, and something about which you and the dean will have to communicate frequently. Should anything approaching this lack of perspective in a situation repeat itself next year, it would call into question your ability to really control the associations and relationships you are developing as a houseparent. If rumors begin once again about your relationship with a student, you will be held fully accountable for same.

There is no further documentation of any concerns in the file. In January of 1987, the head of school wrote a letter of recommendation on behalf of the houseparent and described her as a “superb member of our residence staff.” The head of school acknowledged, “[Her] devotion to her students has at times meant that she has been isolated from the adult community and has occasionally been too closely identified with the students. [She] began to combat this impression in very positive ways last year by branching out in her work here at school.”

We spoke with the former houseparent, who declined to participate in our review.

Fifth Report 1980s - Robert White

Through our review, we learned that Robert White, a security guard from 1983 to 1987, was terminated in November 1987 for reportedly kissing a student. The file reflects that Phil Deely called Mr. White into his office to investigate “allegations that [Mr. White] engaged in inappropriate actions towards a student.” The file reflects that an unnamed student reported that Mr. White had “kissed her 3 times on the lips, rubbed her back and patted her behind,” and that

he had done this before. The file reflects that when confronted, Mr. White said, “I am more friendly than the other guards. Yes I have kissed students on the cheek . . . Yes, I have put my arm around them . . . I can see how they (students) might take it wrong.” Mr. White admitted to having “kissed, hugged, patted at least two” students. Mr. Deely immediately terminated Mr. White’s employment.

Mr. White is now deceased.

Sixth Report 1980s - Male Employee

We received an anonymous online submission alleging that a male employee was involved with a student from the class of 1987, and that it was “consensual.” There was no further information or context provided, and our review of the employee’s personnel file did not reflect any reported misconduct or disciplinary action. We spoke with the male employee, who “absolutely refuted” the allegation. The employee demonstrated a clear understanding of appropriate student-employee relationships and said that it was just understood that he and his-coworkers would intersect with students and other employees in a professional manner.

Seventh Report 1980s - Female Houseparent

We received a third-party report from an alumna from 1999 about a houseparent in the 1980s. The alumna reported that she heard rumors that the former houseparent had an inappropriate relationship with an unnamed student in the late 1980s-early 1990s. There was no further information or context provided, and our review of the employee’s personnel file did not reflect any reported misconduct or disciplinary action. We were unable to identify the student, and only one administrator recalled any concerns about the houseparent. The administrator described the houseparent as young, and said that she “made friends with kids” and that the houseparent “may have had a relationship post-graduation.”

1990s

1. Overview

Through our review, we received fourteen reports concerning eleven respondents from the 1990s. Three of the respondents were School employees, one respondent was the husband of an Emma Willard faculty member, and two respondents were unidentified strangers who were each alleged to have sexually assaulted an Emma Willard student off-campus in separate incidents. Four of the reports came from complainants and ten of the reports came from third-party reporters.

2. Applicable Policies and Laws

On February 2, 1996, the School promulgated its first written policy regarding sexual harassment. The full text of that policy is reproduced below. On June 30, 1998, the School amended its written policy to include language prohibiting sexual relationships between employees and students.

During the 1990s, under the New York Penal Code, a person was incapable of consent to sexual intercourse when he or she was less than seventeen years old.

In the 1990s, the New York Child Protective Services Act continued to require “school officials ... having reasonable cause to suspect that a child under the age of eighteen years has had serious physical injury inflicted upon him by other than accidental means, or whose condition gives indication of other serious abuse or maltreatment” to report the abuse.⁴⁵ As noted above, however, the reporting requirement was limited to suspected abuse or maltreatment by a parent or legal guardian. There were no material changes to the Child Protective Services Act in the 1990s.

3. School Leadership

Robin Robertson was the Head of School through 1999. Trudy Hall assumed leadership of the School during the last year of the decade (1999-2000).

4. Summary of Information Gathered and School’s Response

Under Robin Robertson’s administration, the School promulgated its first policy regarding sexual harassment or misconduct. The policy was published in both the student and employee handbooks in the mid-1990s. The policy provided:

SEXUAL HARASSMENT POLICY

The Emma Willard School community is founded upon shared respect for the individual and for each other. We strive to establish a place to work, live and learn in a safe and pleasant environment in which we value our-selves and each

⁴⁵ 1969 N.Y. Laws 1016-17, as amended by 1977 N.Y. Laws ch. 518.

other. Inappropriate behavior of a sexual nature can undermine these goals and that respect. Believing that these values are important to our community, it is the policy of Emma Willard School that no member of the community may sexually harass another.

Sexual harassment consists of unwelcome sexual advances, sexual assault, requests for sexual favors, sexually directed remarks, displays of sexually suggestive material, and/or behavior that is of a sexual nature. Under the guidelines of the Equal Employment Opportunity Commission, such conduct is illegal discrimination on the basis of gender when submission to or rejection of such conduct is used as a basis for promotion or other employment decisions, or the conduct unreasonably interferes with an individual's job performance or creates an intimidating, hostile or offensive working environment. At Emma Willard School, we strive to eradicate sexual harassment of all members of the community.

Response to Violations

Intentional or unintentional incidents of sexual harassment will be responded to in an appropriately swift and fair manner.

Sexual harassment may take many forms. Without feeling constrained by specific definitions, any member of the Emma Willard community who believes that her or his educational, social, or work experience is in any way compromised by incidents of sexual harassment should feel free to seek satisfactory resolution.

If a person has questions or concerns about a suspected incident of sexual harassment, the Emma Willard School community has in place a number of informal structures whose purpose is to provide a confidential environment for the airing of concerns of many kinds. Students, for example, should feel free to talk with the School Counselor, the Peer Counselors, members of the residence staff, members of the faculty, or their advisors should they feel a need to discuss any incidents of suspected sexual harassment and how, if appropriate, to proceed with a formal charge. Faculty and staff might want to talk with the School Counselor, their division chair, their department head, or their supervisor to discuss an incident of suspected harassment and how to proceed with a formal charge.

In all instances, when a student, or faculty, or staff member believes that she or he has been sexually harassed, he or she should speak directly with the Head of School, the Dean of Students, the Academic Dean, or the Director of the Children's School at Emma Willard. They will listen carefully and inform the Head of School of the incident.

To insure a swift resolution and to protect the rights of both the accuser and the accused, the Head of School will ask two persons selected from a group consisting of the Associate Head of School, the Academic Dean, the Dean of

Students, the Director of Finance and Administration, and the Director of the Children's School at Emma Willard to investigate the incident expeditiously and confidentially. These two people will meet with all concerned parties separately and, upon reaching a determination, will recommend corrective action to the Head of School. The corrective action may include, without limitation:

- *no action;*
- *education of the community about appropriate behavior;*
- *counseling;*
- *oral or written warning;*
- *suspension; or*
- *dismissal or termination.*

Where legal action is required, they will seek legal counsel and act as advised.

February 2, 1996

On June 30, 1998, the Sexual Harassment Policy was revised to include the following language:

The faculty and staff of Emma Willard School occupy a position of great trust with respect to the well-being of our students. Our faculty and staff are in a position of authority and influence over the students and must always ensure that this authority and influence are not abused.

Sexual relationships or activities between any member of the Emma Willard School faculty or staff and any student are improper, prohibited, and a basis for immediate dismissal from the School. Such relationships or activities may also constitute a crime or child abuse or maltreatment under the New York State Social Services Law.

First Report 1990s – Off Campus Rape

We received third-party reports from two alumnae from the 1990s about a rape that occurred off campus in the fall of 1992. The alumnae shared that the student had “snuck out to go to a party” and was raped by a stranger. The alumnae believed that the student had reported the assault to the School, but that the School did not call the police or take the student for medical treatment. One of the alumna perceived that the student had been disciplined for being off campus without permission and returning after hours. She said that the student had been “locked in the health center,” which was perceived as a place of punishment. None of the administrators we spoke with recalled the circumstances of the initial report, and there is no information in the student’s file reflecting any mention of the incident or any disciplinary action. We were asked by the third-party reporter not to contact the student directly.

Administrators confirmed, however, that during the student’s senior year, she was removed from on campus housing for disciplinary reasons. Robin Robertson shared that the Dean of Students wanted to expel the student, but that Dr. Robertson disagreed and wanted to help the student

complete her education. The student remained at Emma Willard through her graduation and was provided with support and assistance by members of the administration.

Second Report 1990s – Male Faculty Member

We received three third-party reports from alumnae from the classes of 1994, 1995 and 1999 sharing their belief that a male faculty member had an inappropriate relationship with a student in the class of 1995. The relationship reportedly occurred during the fall of 1992. The alumnae said at the time, the suspected relationship was the subject of jokes and that the other students accused the student of concern of being in love with the teacher because she spent so much time around the male faculty member. The alumnae described the interaction between the student and the teacher as “not standard student-teacher behavior” and said that it was the source of many rumors. The alumnae from 1994 and 1995 said when they were in college, that the student of concern later confirmed that there had been an inappropriate relationship. We tried to contact the student of concern, who did not return our outreach.

There is no information in the student’s file or the personnel file reflecting contemporaneous documentation of any report or disciplinary action. The teacher resigned on January 14, 1993, effective at the end of the academic year.

During our review, an administrator recalled watching the teacher “flirt with the students, who enjoyed getting attention from an older male.” The administrator also recalled a “rumor of a student going back to his apartment,” but the administrator “did not check it out.” Another administrator from the time observed that “the teacher often played favorites quite a bit.” The administrator said that about five to ten years after the student’s graduation, the student’s mother told her that the teacher “had a relationship with her daughter.” The administrator said that “the teacher was long gone from the School” at the time the mother came forward and there was no indication that the School had contemporaneous information about the relationship in 1992.

Third Report 1990s – Male Faculty Member

We received multiple third-party reports about a male faculty member who was perceived as “creepy.” Alumnae from 1995 and 1996 reported that the teacher gave shoulder massages and touched students during class in a way that reportedly made the students uncomfortable. In addition, the alumnae reported three additional incidents of concern. Two alumnae, from 1996 and 1999, reported an issue from 1992 when the teacher inappropriately touched a sophomore student in the hallway. The teacher was reported to have grabbed the student’s ponytail, shoulders and arm while discussing a test with her, such that the student felt intimidated and scared. The incident was reported to the administration. The administrators reportedly asked the sophomore to reenact the conduct in the exact place in the hallway, which made the sophomore uncomfortable. The alumna from 1995 also recalled that during class, she saw the teacher “pin” a student to the chalkboard while the student was writing on the board. The alumna said that she and another student reported this incident to Dr. Robertson. In the third incident, the alumna from 1996 said that the teacher tried to feed a student a piece of candy. In addition, several alumnae also reported being aware that the teacher may have physically abused his spouse.

Our review of the personnel file revealed that two of these incidents were documented as having been reported contemporaneously to the School. There is a reference to a conversation between Jack Easterling and the teacher the prior year where Mr. Easterling told the teacher that students were uncomfortable with his physical behavior. According to a four-page memo in the file, on April 15, 1994, the teacher was reported to have physically touched a student in the hallway while discussing her recent performance on a math test. The student described the conduct as uncomfortably close (his arms crossed behind her neck with forearms on her shoulders, with his face in her face, nose to nose) and said that when she tried to pull away, he restrained her, then grabbed her arm and pulled her towards the classroom. On April 18, 1994, Dr. Robertson documented the incident in a letter to the teacher:

I have enclosed a summary of the incident Jack Easterling and I discussed with you on Saturday afternoon. Although there are a number of discrepancies in the various accounts, it is clear that at the very least you placed both of your hand[s] on the shoulders of the student involved. While you have said that your intention was to express your concern for her and the facts are certainly consistent with that interpretation, there is no doubt that the student perceived the action as threatening and intimidating.

In recognition that you might not understand how female students respond to physical actions from adult males, I will assemble some information for you to read that should clarify the issue.

In the future, I must insist that you refrain from touching any student. Should you do so, it will be grounds for immediate dismissal.

A copy of this letter and the account of the events attached will be placed in your personnel file.

According to the memo, the student's parents were informed of the incident and were satisfied with the resolution. They "appreciated the quick way in which it had been handled." The student was moved out of the teacher's class.

On November 14, 1995, a second memo in the file confirms that two students were studying in the library conference room when the teacher came in and started to help them with math. The girls said, "He bent down close and positioned himself between the two girls" which was uncomfortable. The teacher then stopped abruptly and tried to put candy in one of the girl's mouth; the student described it as, "he tried to feed me." While there is no contemporaneous documentation detailing the outcome of this incident, in a February 16, 1996 letter to the teacher, Dr. Robertson wrote:

Jack Easterling and I have discussed your request that we reconsider our decision not to renew your annual contract at the end of the current academic year based on your contributions to the [department] and to the School. . . We have decided not to reverse that decision. It was based not on your contributions (or lack thereof) but upon the occurrence of a second incident of inappropriate behavior toward a student. As I noted in November, your behavior on both occasions

reflects a lack of judgement that must be acted upon independently of your contributions to the School. We cannot risk a third incident. Our liability is too great within the community and before the law.

On April 4, 1996, the teacher submitted a written letter of resignation.

In addition to the information available in the file, an administrator from the time recalled students feeling like the teacher was “creepy,” but that when asked for more context, the students could not describe conduct beyond “it’s just the way he looks at me.” There were no known reports of touching beyond those already described above.

Fourth Report 1990s – Female Intern

We received two third-party reports from alumnae in the class of 1995 about an intern who reportedly had an inappropriate relationship with a student in the same class. One alumna described the relationship as a mutual attraction or love, but said that the student and intern decided to wait until the student graduated to act upon it. The other alumna described the intern’s conduct with the student as “grooming.” An administrator from the time observed that the intern “had trouble understanding how not to be friends” with students. We tried to contact the student of concern, who did not respond to our outreach.

We reviewed the intern’s personnel file, which did not reflect any reported misconduct or disciplinary action.

Fifth Report 1990s – Male Faculty Member

Through our review of School files, we learned that in November and December of 1996, a junior in the class of 1998, reported that a male faculty member was stalking and sexually harassing her. The student reported that she was receiving anonymous notes and telephone calls from an individual she believed to be a particular faculty member. The conduct was reported to another teacher, who elevated the report to Robin Robertson. Trudy Hanmer and Jack Easterling conducted an investigation, which included conversations or interviews with 11 students and employees.

In an undated memo to Dr. Robertson, Ms. Hanmer wrote, “After an investigation into the allegations of sexual harassment brought by [the student] against [the faculty member], it is our opinion that the charges are absolutely groundless and that there is no evidence of any act of sexual harassment, intentional or unintentional, on the part of [the teacher] toward [the student]. The investigation “found not one shred of evidence linking” the teacher to the conduct, and the teacher was unfamiliar with the student in question other than a passing encounter at a coffee house. The student later wrote a letter of apology to the teacher for accusing him “wrongfully without having any hard proof.”

On December 19, 1996, the teacher wrote to Dr. Robertson to thank her for the “thorough, discreet, speedy, and highly credible investigation,” which he believed “helped to minimize the likelihood of dangerous, unwieldy rumors.” The teacher wrote, “I certainly feel fortunate to work for an institution which is equipped to manage such a potentially volatile crisis.”

Sixth Report 1990s – Male Spouse of Faculty Member

We received one first-person account from an alumna from 1997 (the complainant) about the husband of an Emma Willard faculty member who ran a business in Albany and often took students for outdoor activities. The complainant worked in the respondent's business one day a week as part of a School-approved practicum. The complainant said that she developed a close mentoring relationship with the respondent, and that they developed "a very deep, strong friendship," or "as strong a friendship as a 16 year-old girl and a thirty-something man could have." The complainant said that they spent a lot of time together, and that the respondent often drove her to outdoor locations off campus. She said that her trips with the respondent were approved by the School. The complainant said that the respondent traveled to visit her at summer camp in Vermont during both the summer of 1995 and 1996. She described their friendship as bizarre and highly emotional, and that his conduct toward her, albeit not physical, was upsetting.

The complainant said that at some point during her junior year, her parents became concerned about how much time she was spending with the respondent. She said that her parents "flipped out" and forbade her to see the respondent. Her parents met with the respondent directly and also with the Dean of Students, who reportedly discounted her parents' concerns because the respondent was married and nothing had occurred. At the complainant's graduation, the respondent gave her a 14-page, double-sided, letter in which he professed his love for her. The complainant said the letter "creeped" her out. She said that had she not identified as gay, the relationship would have become physical.

We also received two third-party reports, from an alumna from 1995 and 1998, both of whom confirmed the respondent's conduct with the complainant. The alumna from 1995 described the conduct as grooming – she was aware of the respondent's letter. The alumna from 1998 was also aware of the conduct including the letter and the respondent's visits to the summer camp; she recalled sharing her concerns about the respondent's conduct with his wife, an Emma Willard teacher, and feeling that the School was not responsive.

The complainant also disclosed to us that the respondent had sexual intercourse with two alumna from the class of 1995. She said that one of the 1995 alumna told her about the incident, and the respondent admitted the second incident to her.

We spoke with the respondent's ex-wife, who confirmed that the respondent had a group of girls that liked to do outdoor activities. She confirmed that he was getting very close with the girls, but that she and the respondent were divorcing at the time. She also shared that the respondent admitted to her that he had "got together sexually" with an alumna from 1995 after her graduation. She did not remember any intervention by the School, other than a conversation with Dr. Robertson who asked her about the respondent's interactions. She recalled confirming to Dr. Robertson her belief that the conduct was just "friendships." She also recalled that the respondent "adored" the complainant and that her parents "got very nervous about him and that caused him to end the relationship."

An administrator from the time recalled a complaint coming forth that "the respondent was spending a lot of time hanging around and talking with girls for someone who did not work

there.” The administrator said that the respondent had “no official connection to the school and was told to not come back.”

We reviewed the student records for all three alumna. Two of the files indicated that the student had taken a course with the respondent for credit in the spring of 1995. Because the respondent was not an employee, there was no personnel file.

Seventh Report 1990s – Scott Barton

We received more than a dozen third-party reports about Scott Barton, who taught biology at the School from 1994 until he was terminated in March 1998. The information reported to us concerned multiple accounts of an inappropriate relationship between Mr. Barton and a student from the class of 1998 (the complainant). We tried to contact the complainant, who initially agreed to speak with us, but did not ultimately participate in our review.

We spoke with a broad cross-section of the community, including alumnae, and current and former employees, administrators and faculty members. These individuals provided their observations of the interaction between the complainant and Mr. Barton. Several alumnae described specific observations of Mr. Barton and the complainant, including two alumnae who described overt interactions between the two. An alumna from 1998 recalled sitting with friends on the grass as a senior, and Mr. Barton came over to the complainant and said “Let’s go.” She said Mr. Barton then walked the complainant into the woods in broad daylight. The alumna said everyone was around and watching them. An alumna from 2001 also recalled that while at soccer practice with coaches standing on the field, Mr. Barton and the complainant walked off together into the woods, hand-in-hand. She described what happened as a red flag and said everyone saw it; she also said that it scared her and made her feel uncomfortable. Similarly, an alumna from 2001 recalled that around the time of Revels, she and a friend found Mr. Barton and the complainant embracing and leaning against each other in the ceramics studio. The alumna said she and her friend backed out of the studio, ran back to the dorms, and never told anyone about what they saw. The alumna said that on another occasion she saw Mr. Barton and the complainant “driving around campus.”

Other alumnae shared their perceptions that the relationship between Mr. Barton and the complainant was well-known on campus. An alumna from 1995 said, it was “in the realm of common knowledge.” In an anonymous online submission, an alumna who identified herself as a day student also said it was “common knowledge” that Mr. Barton was having a sexual relationship with a student. An alumna from 1999 said everyone knew – “It was very public.” Another alumna from 1997 said that the relationship “was 100% known.” She added that Mr. Barton and the complainant “weren’t making out on the quad,” but “they were always together,” and the relationship was “very much acknowledged.”

Many alumnae also believed that School administrators should have been aware of the relationship. An alumna from 2001 observed, “If I was a clueless freshman and knew, I would find it surprising if no faculty knew.” She said that from her perspective, the School “should have known.” An alumna from 1996 recalled that around the time of Mr. Barton’s termination, a faculty member with whom she was close shared with her that he was “extremely angry with the school right now” and “extraordinarily angry at the principal” because “bad things” were

happening. The alumna said the teacher did not share what he meant, but told her that as a result, it would be his last year teaching at the School. Another alumna from 1999 recalled noticing a distinct change on the part of the same teacher; she said he had previously spent time with Barton, but then stopped for a reason unknown to her. According to the School files, this same teacher observed conduct between Scott Sargent, below, and another student, which he reported to the School.

In contrast, other faculty and administrators we spoke with shared that they were unaware of Mr. Barton's conduct until his dismissal was shared with the students, faculty and parents, and that faculty discussions were marked by "surprise and shock" "in a disappointing way." One faculty member observed that Mr. Barton thought highly of the complainant, that Mr. Barton and the complainant spent a lot of time together, that Barton went to the complainant's family's house for dinner, and that Barton stayed at the complainant's family home on a school-sponsored trip. The faculty member said that, "In hindsight, maybe it should have been a red flag," but that it did not occur to her at the time that Barton's relationship with the complainant was inappropriate.

A houseparent, employed during the 1997-1998 academic year, told us that prior to Mr. Barton's dismissal, she learned from an administrator about the ongoing relationship between Mr. Barton and the complainant.⁴⁶ The houseparent said she questioned why Mr. Barton had not been fired given his role as a teacher and the resulting position of power. The houseparent said the administrator responded by telling her that the relationship was consensual, that the student was of legal age to consent and to drop it.

We reviewed Mr. Barton's personnel file, which includes detailed information about the events of the fall of 1997 and the circumstances of his termination. According to a memo to the file from Dr. Robertson, dated March 11, 1998 (See Appendix VI), in October 1997, the Dean of Students and another administrator met with Mr. Barton to "warn him that his behavior vis-à-vis [the complainant] was inappropriate."

On December 10, 1997, Mr. Barton submitted his resignation, effective the end of the academic year, referencing that conversation:

October was a particularly unpleasant month, and I felt not only that I was unwelcome but also that I was (am) a liability to the School. . . It is merely time for me to pursue my dreams of living life close to the land, to feel the connection with the soil that made my bones, to lead a meaningful and harmless life of peacefulness, and to strive in a quiet way to change the consciousness of people for their own good and the good of the Earth.

The same week the head of school and an administrator spoke with Barton about his resignation. On February 2, Barton submitted a "postable" version to the School. In the February 2, 1998 letter, Mr. Barton wrote:

⁴⁶ The houseparent shared that this conversation pertained to both Mr. Barton and Mr. Sargent, as she was also aware of the relationship between Mr. Sargent and a student in the class of 1998.

Also, there are rumors among the faculty that I have been asked to resign. I am dreadfully weary of being the subject of rumors here, but it seems that rumor-mongering is a part of life at Emma, a part I will be very happy to leave behind. I would very much appreciate it if you would mention that I have resigned of my own account. While I care very little what people think about me and have no desire to have any kind of reputation at all, I find it very unpleasant to be the topic of other people's conversations. I just want to be left in peace to live in peace.

On February 12, 1998, the head of school informed the faculty that she accepted Barton's resignation, effective the end of the academic year.

According to the memo to file, on March 8, 1998, the complainant's father called the School to speak with the head about "a matter of utmost importance having to do with a situation between a faculty member and a student." At 7:30 p.m. that evening, the complainant's parents met with Dr. Robertson and Jack Easterling at Dr. Robertson's home. During the meeting, the complainant's father said that the relationship between his daughter and Mr. Barton had reached a point where he and his wife "no longer felt able to deal with it." The complainant's father explained that they had met Mr. Barton in November and became concerned "there might be more to the situation." He said that he met with Mr. Barton on December 20, and asked him to stop any form of communication with her so that she could complete her education. He also said that in mid-February, the complainant's mother contacted Mr. Barton because she was disappointed in his not having lived up to the agreement. The complainant's father said that they found email and handwritten correspondence between Mr. Barton and the complainant which referenced a sexual encounter and a plan to purchase land. According to the memo, Dr. Robertson read the first part of the letter and immediately informed the complainant's family that she had to dismiss Mr. Barton. Dr. Robertson wrote, "That kind of correspondence, whatever else might or might not be the case, was inappropriate."

The file contains handwritten letters from Mr. Barton to the complainant, dated February 24, 1998. The letters contain overtly sexually content, as Mr. Barton describes a real or imagined sexual encounter with the complainant. The file also contains copies of email correspondence from Mr. Barton to the complainant. In a March 1, 1998 email to the complainant, Mr. Barton wrote,

I'm feeling (again) that I am your parents' enemy, that what they would like more than anything is for me to be severely dealt with and put away, exiled, and out of their and their daughter's lives. I think they can't imagine that I love you; they can only imagine that I lust after you; they can only see me as some despicable older man who had seduced and corrupted their daughter, ruining her friendships with people her own age, distracting her mind and disrupting if not destroying her life. . . . We've got to get through the rest of this school year. We know what our dreams are, and we're planning and working for them. We'll have them. I will give you your dreams, and you will give me mine. We are already doing it. But we're living in a crazy situation now in a crazy world that has little hope and little

faith and believes more readily in the badness of people, in dishonesty and ulterior motives.

The file contains similar correspondence to the complainant on March 4 and March 7, 1998. In those emails, Mr. Barton professes his love for the complainant and discusses a plan to live off the land together and be sustained by their love for one another. Mr. Barton outlined his plan to drive through parts of West Virginia, Tennessee, Kentucky, and southwest Virginia to look at properties where they can farm together.

According to Robertson's memo to the file,

At 9:15 Jack and I went over to Mr. Barton's apartment and talked with him. He said he was in love. That kind of love made it worth breaking the rules. I told him I could understand that kind of love, but that one could not continue to live and work in a place and violate the rules. I told him he should have left as soon as he recognized what was going on; his behavior had been dishonorable. Jack attempted to make a similar point with as little success. . . That conversation ended with my telling him he needed to be gone by the end of spring break and that we would continue to pay him through the end of June.

On March 9, 1998, the head of school sent a letter to "Members of the Emma Willard Community (Attached as Appendix VII). In the letter, Dr. Robertson wrote,

The past few days have been very difficult ones in my office. At a time when spirits were high in anticipation of spring vacation and school trips abroad were in the offing, members of the senior staff and I spent many hours in painful deliberations with and about two faculty members.

It is my unpleasant task to inform you that the employment agreements between Emma Willard School and Scott Sargent and Scott Barton, members of the History and Science Divisions respectively, have come to an end, effective immediately. In separate, isolated and unrelated incidents, each of them overstepped the carefully defined and articulated boundaries for faculty-student interaction. As soon as we received substantive information about these situations, I took the necessary action.

The file also reflects that the School spoke with a Detective Sergeant of the Troy Police Department and a representative of the Rensselaer County District Attorney, as well as outside legal counsel for the School. Local media covered Mr. Barton's (and Mr. Sargent's) dismissal in newspaper articles dated March 26 and March 27, 1998, identifying both faculty members by name.

We spoke with School administrators about their role in Mr. Barton's termination. Administrators recalled that Mr. Easterling had addressed Mr. Barton about his conduct in October, which they identified as inappropriate, but not sexual or physical as far as the School knew at that time. One administrator observed that there were rumors, but nothing substantive.

The administrator explained, “It just didn’t smell right” and said Mr. Barton was told to correct his behavior. The administrator recalled that the complainant’s parents argued with her over whether Mr. Barton should be fired, but that as soon as she viewed the emails, “it was over – down the hill, and up the hill” to faculty housing to fire Mr. Barton, and he was gone the next day. The administrator said, “I did not attach the blame, and I never have, to [the complainant].” The administrator said that the practice at the time would not typically have been to talk with the student, and that a student would not have been reprimanded or disciplined.

Another administrator’s recall was similar: “We went to his apartment in the pouring rain, sat him down and told him that his relationship was completely illicit, that he could no longer be a part of the school, and that he had to go.”

We also received third-party reports suggesting that Mr. Barton may have had inappropriate relationships with other students. An alumna from 1996 shared that another alumna from 1996 had who “a thing for” Mr. Barton that “got out of hand” was “yanked into Dr. Robertson’s office and spoken to.” Another alumna from 1998 recalled that Mr. Barton “was all over” another student, describing “an interaction with a woman you would assume he was married to or dating.” She recalled seeing Mr. Barton touch a student underneath a table in the cafeteria, and thinking that it was egregious and crossed the line. She remembered looking at the adults in the room, and waiting for them to respond, but they did not. Several alumnae recalled Mr. Barton making inappropriate comments and jokes. A faculty member said that she was told that Mr. Barton may have dated a 19 year old who was a former student from another all-girls school.

Eighth and Ninth Reports 1990s – Scott Sargent

We received one first-person account from a student from 1998, as well as more than two dozen third-party reports about Scott Sargent, a faculty member who taught history at Emma Willard from 1994 until his termination in March 1998. The information reported to us reflected that Mr. Sargent had an intimate relationship with an alumna from 1996, which was known to the School as early as May 1997, and an intimate relationship with a student from the class of 1998, which came to the School’s attention during the 1997-1998 academic year, and ultimately resulted in Mr. Sargent’s termination. We spoke with the student from 1998 (the complainant) at length. We did not speak with the alumna from 1996, who requested through a third party that we not contact her.

Eighth Report 1990s – Scott Sargent

Available information in School records reflects that Mr. Sargent was hired in July 1994. According to many alumnae who shared information with us in our review, Mr. Sargent’s relationship with the 1996 alumna was well known. Alumnae from 1995 and 1996 recalled that the relationship between Mr. Sargent and the 1996 alumna was “one of those common knowledge sorts of things.” Another alumna from 1996 shared that a houseparent was also aware of the relationship, and brought it to Dr. Robertson’s attention. Alumnae reported seeing Mr. Sargent visiting the 1996 alumna at college, and Mr. Sargent’s ex-wife, also an Emma Willard employee, shared that she was aware of his relationship with the 1996 alumna. Alumnae from 1996 said that they perceived the relationship as consensual and thought they were

“protecting” the 1996 alumna by not saying anything to the administration. They said that they feared the 1996 alumna would get in trouble.

A close friend of the 1996 alumna, also in the class of 1996, recalled spending significant amounts of time with Mr. Sargent and the 1996 alumna, but said that she was unaware whether Mr. Sargent and the 1996 alumna began to date prior to graduation. She described herself and the 1996 alumna as Mr. Sargent’s “pets,” and said they frequently hung out in his office and at his home, which she thought should have been noticeable to administrators. This alumna, as well as an alumna from 1997, both recalled first learning about the relationship between Mr. Sargent and the alumna from 1996 after she was already in college. An alumna from 1999 confirmed the general perception that because the 1996 alumna was over 18 and no longer a student that it was “overlooked” and “no one cared.”

According to information in Mr. Sargent’s personnel file, on May 13, 1997, Dr. Robertson receive an unsigned note that reads, in its entirety, “Did you know Mr. Sargent has a former student staying with him. [Name of alumna]. Obvious with frequent student visitors.” According to the file, on June 4, 1997, Dr. Robertson wrote to Mr. Sargent:

You and Jack and I have discussed on two occasions the potential exposure for yourself and the School that could arise from continuing an intimate relationship on campus between yourself and a recent graduate. In the second conversation, I suggested that if you could not change your behavior on campus you should move off-campus. You assured me that your behavior would change and that you understood the difficulties with the situation.

This afternoon it has come to my attention that you and [the recent graduate] were observed at a number of school related events this past weekend and that it was clear to students and faculty that yours was an intimate relationship. In light of your continuing lack of judgment on this issue, I regret that the School must withdraw its offer of on campus housing for you for the coming year.

Mr. Sargent replied with a letter dated June 5, 1997, in which he disputed the account, but said that he accepted Dr. Robertson’s decision. He acknowledged two prior discussions about the issue and his assurances that he had promised to “change [his] behavior in the future.” He explained, “To me, this change meant not to do or say anything that could misconstrued [sic] by others – I feel that I did just this.” He explained that he had not been alone with the 1996 alumna throughout the weekend, and that at all events, there had been another person present. Mr. Sargent denied any physical intimacy in the presence of others and wrote,

There is nothing more I can say about this – it is impossible to defend myself against accusers and rumor-mongers whose identities and motivations are not known to me. I can neither control what others perceive or what they chose to do with their perceptions, nor can I control what you choose to do when these perceptions are passed on to you. I can only tell you that that I feel my actions were within the terms of the agreement that we reached.

On July 30, 1997, Dr. Robertson wrote to Mr. Sargent to inform him that she had requested that the Administrative Council reconsider her decision to deny him on-campus housing. She wrote:

While Jack's and my initial assessment of the seriousness of the lapse in judgement was affirmed, the fact that to date that lapse has involved a single individual who will be out of the country during the coming year enabled us all to feel comfortable in renewing your on-campus housing. This renewal is for the 1997-1998 Academic Year only and is conditional upon the recent graduate not being on campus in your presence during that year. Any violation of that condition, however minor, will be grounds for asking you to move off-campus immediately.

An administrator explained that the dean of faculty tended to be the head of school's "devil's advocate." The administrator observed that "where she tended to be too quick to jump, he would hold her back and question – what about the impact on the school, what if it gets out."

On February 17, 1998, Mr. Sargent submitted his name as a candidate for the chair of the history division. In correspondence between Jack Easterling and Robin Robertson, Mr. Easterling wrote, "So if we are going to fire him it can't be for this. Depending on your arrangements with him last spring, you can let him go for conduct with [the 1996 graduate] last May perhaps and [the complainant] perhaps. Trudy and I will stand with you. . . . I think that in a littel [sic] time he will truly hang himself by some imprudence."

Several days later, on February 20, 1998, Mr. Easterling wrote about Mr. Sargent, "Character – judgment and conduct – therefore loom largely for me." He continued, "But in the case of [the complainant] what do we have CLEARLY that is any different from Barton and [another faculty member] and the crushes that we have been talking to them about? To make anything much of this, we would need more I would say. Mr. Easterling wrote further, 'So that's why I'm back to his relation with [the 1996 alumna] last year and now. Two instances of bad judgment last spring, and I wonder what is ahead. I won't accuse him of bad judgment if he marries [the 1996 alumna], but it would be embarrassing for the school. If he can't see this then he is showing bad judgement indeed."

Ninth Report 1990s – Scott Sargent

The complainant provided a detailed account of her experiences with Mr. Sargent and the School's response when it became aware of their interaction in early 1998.⁴⁷ In addition, we

⁴⁷ The complainant first contacted the School in April 2016 to inquire about available records. The complainant explained that she came forward to the School after an alumna from 1999 reached out and encouraged her to actively look into what happened. She said she and this alumna began reaching out to others to piece together a timeline of what occurred. The complainant said her inquiry included contacting the Troy Police Department and working with a network of alumnae to recreate a timeline of what had occurred. In April 2016, she contacted the School through counsel. The complainant subsequently reached a civil settlement with the School, the terms of which were confidential and not disclosed to us. Consistent with the scope of our engagement, we did not represent the School in connection with civil litigation. This narrative includes a summary of the information provided by the complainant. The complainant also freely provided documents, personal correspondence, names and contact

received multiple third-party reports confirming an inappropriate relationship between the complainant and Mr. Sargent. We also viewed email correspondence corroborating the existence of a sexual relationship between the complainant and Mr. Sargent.

The complainant enrolled at Emma Willard during her junior year. She shared with us that during her junior year, Mr. Sargent was flirtatious with her and that on two occasions they engaged in sexual intercourse. She said that during her junior year, he was romantic and had given her flowers and cards and taken her to the movies. The complainant said that after returning for her senior year, Mr. Sargent re-initiated contact with her by email, and they resumed a sexual relationship. She said she routinely spent time with Mr. Sargent in his office, and that she formally signed out of campus with him often, including at least two Saturdays a month when they would go to Albany and they would not return to campus until the time she needed to check-in, about 10 p.m. or 11 p.m.

The complainant said that during her senior year, her relationship with Mr. Sargent was different than it had been during junior year. She described a manipulative, demanding and controlling relationship that she found very confusing and difficult to navigate. The complainant said that Mr. Sargent's demeanor with her was inconsistent – that sometimes he was funny and friendly, but that other times he was not nice when they were alone together. The complainant said Mr. Sargent started showing her pornography and that his sexual contact with her became aggressive and “forceful.” The complainant said that he wanted to engage in role playing and would instruct her how to act. She said that he did not want her to talk but wanted to use her body physically. She said that when she tried to say no, he would become dismissive of her. The complainant said she tolerated the conduct because she did not want to upset him, and because she was hopeful that he would demonstrate the earlier kindness she had seen in him. The complainant said, “I wanted a boyfriend, I wanted the relationship, I liked it when he was nice.” The complainant also said Mr. Sargent “had no problem buying [her] alcohol,” which she needed as he made her fairly nervous. The complainant said that she was very stressed and despondent, that she lost 15 pounds and that her grades began to slip as a result. She said that at one point, when she was unable to complete an AP history paper because of his demands on her time, he submitted an old paper another student had written on her behalf.

Student from 1998 (Houseparent and Prefect Observations)

The complainant said she started getting in trouble with her houseparent and her prefect, both of whom were upset with her for being late returning to the residence hall. When asked whether her houseparent approached her about Mr. Sargent, the complainant said no, that the houseparent was “aloof.” However, the complainant's perspective was that her houseparent, who would walk laps on the track near the soccer field, would have seen her interactions with Mr. Sargent, which included him constantly rubbing her shoulders and stretching her hamstring. The complainant also described a conversation she had with her prefect about Mr. Sargent. She said she asked her prefect if she could borrow some facial bleach to dye her pubic hair and recalled telling her prefect that Mr. Sargent said he likes it that way.

information of potential witnesses, much of which are beyond the scope of this report to include in great detail, and was responsive to all of our requests for additional information. The complainant was 17 during her junior year, and 18 during her senior year.

We spoke to the complainant's houseparent who confirmed that in the fall 1997 she noticed the complainant and Mr. Sargent "spending a lot of time together." The former houseparent recalled a conversation with the complainant at check in time. She said she "knew things were not right," and had gone "out of [her] way to find something inappropriate," but could not confirm the conduct. The houseparent said "sometimes [the complainant] was missing from her room" and she would go to Mr. Sargent's office to look for the complainant. Regarding interactions she observed between Sargent and the complainant, the former houseparent said there was "nothing over the line." The former houseparent said she confronted the complainant directly about her contact with Sargent, but that the complainant denied to her that anything was going on. She said the complainant's response was there is "nothing there." The former houseparent could not recall whether she brought her concerns to an administrator, but said she had a vague memory that an administrator talked to Mr. Sargent about not behaving appropriately.

We spoke with the complainant's prefect, also a member of the class of 1998, who said she was good friends with the complainant during their junior year and shared a number of the same friends, but that during senior year they were less close because she was the complainant's prefect. The former prefect said the complainant made her job difficult and said she noticed the complainant "wasn't around a lot" and often "disappeared" "even when one ought to be around." She explained that seniors could sign-out, but she would have "no idea" where the complainant was. The former prefect said she was "supposed to tell the houseparent" when students were not on the hall and recalled telling the complainant "to do what you're supposed to do." She said students were required to report to breakfast by a certain time, but the complainant "wouldn't come to breakfast." The former prefect said it was the "same with morning reports." As a prefect, she was responsible for taking attendance for her hall, but the complainant "would consistently not be there," and, "At some point [the complainant] had to go do dishes in the kitchen" as a consequence for her lack of attendance.

The former prefect said she "knew something was up" between the complainant and Mr. Sargent and thought the complainant "had a crush on" Mr. Sargent. She described her observations of them and said the complainant and Mr. Sargent ate breakfast together on the weekends, but she "never saw anything" inappropriate. The former prefect explained that she "never saw them touching." She said there were "rumors, of course, but there were rumors about all kinds of things" and noted that the complainant "never mentioned [the relationship] to me." The prefect noted that part of why she did not think there was any impropriety was because she herself was close with a male faculty member and noted that relationship was strictly professional. The former prefect also recalled "that at some point [the complainant] wanted to borrow bleach" for her hair, but said the complainant did not offer an explanation as to why. The former prefect said that the complainant did not tell her about Mr. Sargent at the time and noted that she "would've remembered" if the complainant told her that a faculty member asked her to bleach her pubic hair.

Student from 1998 (Student and Employee Awareness and Observations)

The complainant said that Mr. Sargent, who was her soccer coach, "was constantly rubbing [her] shoulders," or would put "his hand on [her] neck at a soccer game," but "he wasn't touching anyone else." She said that the conduct should have been noticeable to both students and adults.

An alumna from 1998 said she heard rumors about Mr. Sargent and the complainant, but recalled the moment she realized something was going on between them. The 1998 alumna had Mr. Sargent for history her senior year and said there was a morning where both the complainant and Sargent walked into the classroom with a Strawberry-Kiwi Snapple. She said she remembered this because the beverage was her favorite and it was not available on campus. The 1998 alumna thought she should make a report, but thought everyone already knew because it was “so in the open. There was no hiding.” An alumna from 2001 recalled going to Mr. Sargent’s office to turn in a paper at the end of a semester. She recalled that the office was dark and Mr. Sargent was not there, but she saw a girl sitting curled up on the chair in his office. The 2001 alumna said she could not see who it was because of the glare from the computer and her eyes had not adjusted, but she heard an angry voice say, “Get out of here.” The 2001 alumna said that when she returned to her hall she told other students about what happened, and they told her that the complainant was in Mr. Sargent’s office all the time. When asked whether she had any sense whether administrators knew, the 2001 alumna responded, “It’s insular; it’s small. You can see everything.”

The complainant told us that she often visited Mr. Sargent’s office, which was underground and down the hall from the security office. She said there were ten teachers’ offices in that location. She said “people would see [her] come in and out” of Mr. Sargent’s office and that one particular female teacher saw her leaving Mr. Sargent’s office when Mr. Sargent was not there. We spoke with the female faculty member identified by the complainant, who told us that her office was on the same hallway as Mr. Sargent. When asked whether she made any observations of the complainant in or near Mr. Sargent’s office, the former faculty member said she had no memory of that, and while it was unusual to have a student in the office without a teacher, it was not entirely unusual.

The complainant also said that a former faculty member who had an apartment near Mr. Sargent saw her leaving his residence on several occasions—one time during the school week, one time on a weekend. She recalled one time after dinner she tried “to quietly close [Mr. Sargent’s] patio door and slipped on ice on the patio.” She said that when she stood up and brushed herself off the former male faculty member startled her and asked if she was ok. She believed the faculty member “knew [she] was leaving Scott’s apartment.” The complainant said she would leave Sargent’s apartment and “would go back to the dorm at the latest [she] could.” She said she “would run back in the shadows and jog around outside of the flood lights,” noting she “didn’t want it to end.”

The personnel file includes a reference that on March 2, 1998, Dean of Students Judy Bridges called Dr. Robertson to report that a faculty member had seen the complainant leave Mr. Sargent’s apartment at 10:30 p.m. on a Saturday night. As outlined in the Barton summary, that faculty member shared with a student from the class of 1998 that he was “extremely angry with the school right now” and “extraordinarily angry at the principal” because “bad things” were happening. We attempted to speak with this faculty member, but he did not respond to our outreach.

According to a March 11, 1998 memo to the file by Dr. Robertson, Dr. Robertson, who was out of town, asked Judy Bridges to investigate the information brought forward by the faculty

member. (Attached as Appendix VIII). The memo reflects that Dr. Robertson returned to campus on March 4, and that “the details were still being resolved.”

The file contains an email from Scott Sargent, dated March 5, in which he writes to Dr. Robertson that,

I spoke with Judy Bridges this morning just prior to the history division meeting about her recent discussion with you. As I understand her there is more than one possibility for the ‘next step’ I am to take. While it is my earnest wish to see this matter dealt with as expediently as possible, I do not feel able to do that now. I have had six hours of sleep since I awoke Monday morning and I am not confident that any decision I made now would be a well-informed one. My plan is to get some rest this afternoon/evening, review the school’s sexual harassment policy and, if it is feasible, to sit down with you at some point tomorrow afternoon (or at your earliest convenience thereafter) to discuss this policy and the situation in general.

Student from 1998 (Illicit Emails)⁴⁸

The complainant said that Mr. Sargent often contacted her by email (or instant messenger) to arrange meetings and give her instructions about their interactions. She said that she did not have her own computer, so she would use a friend’s computer or the School’s computers in the computer lab. She recalled having limited time on the School computer, so she would print out the correspondence to review later. The complainant recalled problems with the School’s printer and being unable to complete printing on at least one occasion. The complainant provided a copy of a graphic email from Mr. Sargent to her school email address dated February 16, 1998. In addition to explicit and graphic sexual content, Mr. Sargent wrote, “So be a good girl, answer the phone and do as I say tonight. I will leave my back door open. [Complainant], do as I say.”

The complainant recalled that at some point Trudy Hanmer spoke to her about her emails with Mr. Sargent. She was unsure of the date of this conversation, but believed it occurred several weeks before she withdrew from the School. She said that Ms. Hanmer told her that some underclassmen found emails addressed to her from Mr. Sargent. The complainant said that Ms. Hanmer also told her that she needed to be more careful printing things because anyone can find them. The complainant said the administrator also told her that since Mr. Sargent referenced having sex with her on the impending spring break trip to Ireland, she was going to remove him as a chaperone as a result. The complainant said she did not say anything to the administrator, who did not seem to view the conduct as a problem. The complainant recalled being embarrassed by later seeing the students who found the emails on campus.

An alumna from 1999 confirmed for us that in the winter of her junior year, another student who worked in the computer lab found a printed instant message conversation between the

⁴⁸ As outlined in this next section, it is unclear when the School became aware of the email correspondence between Mr. Sargent and the complainant. Witness accounts range from several weeks before March 6, 1998 to the day of March 6, 1998. What is clear is that by the date of Mr. Sargent’s termination, members of the administration were aware of the emails. The head of school does not recall being aware of the emails and explained that it would have been noted in her March 11 memo in support of the decision to terminate Mr. Sargent.

complainant and Mr. Sargent. The 1999 alumna said she and her friend read the messages, which involved an extremely graphic sexual conversation between the complainant and Sargent. She did not recall telling anyone at the time about what she read and did not know if her friend told anyone. We tried to contact the friend, who did not respond to our outreach, but in an online posting, wrote that she “gave these emails to faculty/administration almost immediately following their discovery in 1998.” She wrote that the emails were “given weeks before sargent [sic] was terminated for ‘crossing’ the lines with a student.”

Most of the administrators we spoke with said that that they were not aware of the existence of the email correspondence and had not seen the emails in question. One administrator recalled learning about the emails through students on the day of the complainant’s withdrawal. Another administrator recalled that some information came to light right before spring break, but did not recall being aware of any email correspondence. That administrator said that they first learned about the existence of the emails from media accounts in 2016 and were stunned to learn of the emails. The administrator elaborated, “If I was the person they came to, then everything I know about myself was wrong.”

The alumna from 1999 shared that on the same day that the complainant left the School, she and her friend were separately called into Dr. Robertson’s office and asked to confirm what they had read in the messages. She said that it was a short conversation and that Dr. Robertson was appropriate, quick and completely respectful. She recalled that there were only a few hours between her meeting in the head’s office and the time the complainant was expelled.

Student from 1998 (Weeks before the Complainant’s Withdrawal)

The complainant said that when she saw Mr. Sargent at lunch after her meeting with Ms. Hanmer, he glared at her and when she talked to him later that night, he confronted her for printing the emails in the computer lab when he had given her a key to his office. The complainant said that Mr. Sargent was “furious” with her because he could not go to Ireland, a trip that was very important to him, and that she recalled feeling like he was angry with her for three to four weeks. She said, she “was trying to not be difficult” and was “wondering when is he was going to stop being mad.”

The complainant said, “People could see I wasn’t sitting with him anymore. He wasn’t sitting with me at lunches.” She said Mr. Sargent began limiting his contact with her and said, “He’d only see me once or twice a week.” She said, “He wasn’t available on weekends” and would explain that he had to see family. In retrospect, she said, “I didn’t know he was still seeing the previous student” at the time. The complainant’s former houseparent also recalled that Mr. Sargent “was told he wasn’t going to chaperone the trip to Ireland” and “it seemed like [Mr. Sargent] was angry with” the complainant.

The complainant said that Mr. Sargent was “angry” and “he took it out on me.” She said, “I was trying to make it up to him. He was pissed I was still going on the trip, and the night before or two nights before the trip, he raped me.” She said, “I don’t know if that was payback or vengeance, or his whole plan the whole time, or if he just got impatient.” The complainant recalled going back to her room, wanting to take a shower, and feeling uncomfortable so she went to bed.

March 5, 1998 (Vandalism of Classmate's Room)

The complainant said that the morning after the rape, the alumna from 1996 called her, screaming, and told the complainant about her own relationship with Mr. Sargent, told the complainant she should kill herself, and discussed specific things that had happened between the complainant and Mr. Sargent the night before. The complainant said that another student, who “was one of five people I was close with who knew that Sargent and I were having sex” had contacted the 1996 alumna. The complainant said that she was very upset about the rape and the telephone call and “wanted to die.” She said she was screaming, crying and upset, and began banging on the door of the classmate she believed had contacted the 1996 alumna. The complainant said that she was so angry and distraught that she trashed the classmate's room.

Students and administrators recall that the vandalism was reported during Morning Report and that students with information were requested to come forward. The dean of students began to gather information from students, who confirmed that the complainant had destroyed the other student's room because she believed the other student had told the 1996 alumna about the complainant's relationship with Mr. Sargent. We received accounts from multiple alumnae and administrators that confirmed that the room, and its contents, were destroyed; negatives and photographs were cut up, ceramics were broken and thrown from the window, and the mattress, bedding and pillows were slashed.

An alumna from 1999 recalled that when she learned that the complainant vandalized the room of her friend she called the dean of students because she did not want another friend to get in trouble for something the complainant did. The 1999 alumna said that when the administrator asked her why she thought the complainant vandalized the room she told the administrator that the complainant thought the classmate whose room was vandalized was the person who called the 1996 alumna who was involved with Mr. Sargent. Another alumna from 1999 said she was called in to speak with the associate head of school and recalled that the administrator told her the complainant was going to get in trouble. The alumna said she felt the need to protect the complainant, but said the administrator interrogated her. She told the administrator everything she knew about the complainant and Mr. Sargent because the administrator threatened to hold her own infractions against her. She recalled that the School told her they knew about emails the complainant sent from the alumna's computer.

The dean of students recalled that a houseparent reported to her that a student's room was vandalized in a very violent way that included knife-gauging and destroying of belongings. She said the student whose room was vandalized found emails on a printer, which led her and the administrators to know about a sexual relationship between the complainant and Mr. Sargent. The dean of students recalled bringing the emails to the head of school's attention and said she was instructed to find Mr. Sargent and bring him to the head of school's office. She also recalled that the head and the associate head of school met with the complainant.

According to Dr. Robertson's March 11, 1998 memo:

On Friday March 6, Judy Bridges announced in Morning Reports that [a student's] room had been vandalized on Thursday evening and asked any students with knowledge of the incident to talk with her. [The student] had left early for

spring break earlier that day. At approximately 9:00 a.m. Judy appeared in my office with the information that someone had come forward and told her that [the complainant] was responsible for the vandalism and that it had to do with [the student] having called a former student who was romantically involved with Mr. Sargent that [the complainant] had had an affair with Mr. Sargent.

We spoke with the student whose room was vandalized. She confirmed to us that she had previously been aware of the relationship between the complainant and Mr. Sargent, and had seen graphic emails between the complainant and Mr. Sargent when the complainant borrowed her computer. The student denied telling the 1996 alumna about the relationship and said that she kept the complainant's relationship with Mr. Sargent a secret at the complainant's request. The student confirmed that she was concerned about the nature of the relationship between the complainant and Mr. Sargent, but that "teenage morality held that tattling on a friend was the height of dishonor, even if it was for your friend's own good." She said she was not entirely sure that there would not be some repercussions for the complainant. She said that the complainant described the relationship as consensual, and the complainant was initially excited about the relationship, but that later in the winter, the complainant shared with her that Mr. Sargent wanted to do what she described as "crazy experimental things." She said she had the sense that the complainant was becoming increasingly hesitant, but at the same time, was confused by the attention and affection, so maybe kind of went along with those things.

March 6, 1998 (Interaction with Administrators)

The complainant said that she recalled being so distraught that she went to the science building to swallow chemicals, but the doors were locked. The complainant said that a male faculty member told her that "everyone was looking for [her] and that [she] needed to go to administration."

According to Dr. Robertson's March 11, 1998 memo:

Judy went to find and to talk with her. I called her father to alert him. By the time I reached him, I was able to tell him that [the complainant] wanted to leave Emma Willard and was insisting that because she was eighteen she could do so.

[The complainant] came to my office. I talked with her in Trudy Hanmer's presence. She admitted to a single incident of sexual intercourse with Scott Sargent in December, 1997, in his apartment. She said she had not been in his apartment in February. She had been looking in the sliding glass doors to see if he was there. He was not. When she turned to leave, she saw [a male faculty member]. She repeatedly said she was withdrawing and refused to talk with her parents. While I was out of the room, Trudy told her that, if she was withdrawing, she needed to say so in writing. The result is attached. I talked with her father again, informing him that a faculty member was involved in the situation. He said he was not surprised.

When [the complainant] was told by me that she could not go on the trip to Ireland, [she] left my office and was found by Judy Bridges in Scott Sargent's

office talking with him. Eventually she talked to her father in order to get him to tell me to give her the spending money and tickets for the trip to Ireland so that she could go to New Orleans. Her father told me to give her the \$200, but to send the tickets to him. Judy Bridges then made arrangements with the father for her departure.

Scott Sargent arrived in my office soon after his conversation with [the complainant] during which he said she had told him that she had told us about the incident. He confirmed what she had said. Jack Easterling joined us soon afterwards. Scott realized that he needed to leave Emma and was full of remorse while taking full responsibility for what had happened. We agreed that his employment agreement was terminated immediately and that he would vacate his housing before the end of spring break. I gave him the option of resigning, which he took. He said he intended to find another job, would not return to teaching for a while if ever, and deeply regretted having broken the trust that should exist between a student and a faculty member.

The complainant shared with us her recollection of her meetings with Dr. Robertson, Jack Easterling, Judy Bridge and Trudy Hanmer. The complainant said Dr. Robertson told her she needed to tell them everything that happened. The complainant recalled “gushing information because I didn’t know what else to do.” She said, “I wasn’t trying to be defensive; I wasn’t trying to be secretive.” She said, “I told them everything.” She recalled she “walked them backwards” and told them about the vandalized room, the phone call from the alumna, and the rape. She said at that point she became aware that she was in physical pain and could feel her body bleeding; she said she was shaky and nauseous and her face itched from crying. She recalled that she told them, “I think I’m hurt,” but they did not offer her medical help.

All four of the administrators present that day confirmed that while they learned of the sexual relationship between the complainant and Mr. Sargent, the complainant did not disclose to them that Mr. Sargent had raped her or that she was bleeding. One administrator acknowledged the power differential between Mr. Sargent and said they told her that it was “not [the complainant’s] fault.” The administrator said that they were “absolutely certain” there was no mention of a sexual assault or anything to do with unwelcome physical contact in the conversation that day; they would have called the school counselor and the school nurse instantaneously. Another administrator recalled that the complainant identified herself as the aggressor, said it was a one-time incident and begged for Mr. Sargent not to be fired.

The complainant said the head of school told her she was in violation of the code of conduct, which the complainant said “sounded serious.” She said she knew breaking her classmate’s things was wrong. The complainant said the dean of the faculty asked her questions, focusing on Mr. Sargent. She said at some point the head of school left the room and the associate head and faculty dean continued to ask questions. The complainant said she kept repeating herself and said the administrator’s questioning felt about an hour long. The complainant said someone gave her a piece of paper and she drew what she was describing because she was embarrassed to talk about it. The complainant provided us with a copy of the drawing.

The complainant said at one point she was alone in the office with the dean of faculty who pulled a chair close to her and put his hand on her knee. She said that he told her that “Sargent had a bright future in front of him and it would be horrible if somehow a misunderstanding led to catastrophic consequences.” The complainant explained she was relieved when “finally, he stood up.” She said the dean got on the phone, which he held out to her. She said she thought it was going to be her father, but when she got on the receiver, she realized it was Mr. Sargent. She said the dean stood close behind her while Mr. Sargent told her, “I know you’re upset with me. We can talk about this later, just follow what the adults are telling you.”

The dean of the faculty recalled that he learned about Mr. Sargent’s affair with the complainant on the morning he dismissed Mr. Sargent. He recalled that he was “busy with” Mr. Sargent, brought him in, and told him he was no longer working at the School and that he needed to move out. He noted that it was especially complicated because of the spring break trip the next day. The dean of faculty recalled that he had to quickly identify someone to replace Mr. Sargent as a chaperone on the trip. The dean of faculty did not remember any individual conversation with the complainant, and when provided with the complainant’s account, said, “There is no way I would ever say that; that is preposterous. I would never say that to anyone and certainly not to her, who I didn’t even know. I am speechless.”

The complainant said the head and associate head returned to the office, and the head told her that the complainant made adult choices, which have adult repercussions. The complainant said the head of school told her that if she withdrew her enrollment, the School would not notify the colleges she had been accepted to of the disciplinary action. The complainant recalled that the head of school also said, “Something like ‘you’re a disgrace.’” She said that in the alternative, the head told her she could be expelled and in that case, the School would have to notify the colleges to which she had been accepted. The complainant said the head of school told her, “Either way, you’re not staying at Emma” and told her, “Your parents are disgusted with you.” The complainant said she assumed the School told her parents what happened.

The complainant said, “I remember just saying ‘give me the fucking paperwork.’” She recalled that the associate head said, “I think we should call her parents,” but the head of school “put her hand up like shut up.” The complainant said she signed her withdrawal. She said, “As soon as I signed the form,” the head of school looked at the associate head and told her to “find someone to bring [her] to the bus station.” There is a signed note in the file that says, “I withdraw” with the complainant’s name and the date “March something 6.” The complainant said that in that same meeting she asked for her diploma and something that said she was in good standing because she had enough credits to graduate. She said the associate head printed out a college reference letter, which she printed from the dean of students’ office. The associate head confirmed that even where a student was facing significant disciplinary consequences, the School would work to assist the student with minimizing academic consequences so that they could continue their education and matriculation at college.

Administrators recalled that the complainant said she wanted to withdraw and the head of school left the room, leaving the complainant with the associate head of school. One of the administrators said that they tried to convince the complainant to complete her degree, but the complainant was concerned about the spring break trip to Ireland; she was not interested in talking about staying enrolled. The administrators recalled that the complainant kept insisting

that because she was 18 years old she could leave. They said the complainant was adamant that her father could not stop her from leaving, and they finally told the complainant that she had to put her withdrawal in writing. The administrator added, “We didn’t have any rights over her” and could not preclude the complainant from leaving.

Administrators reiterated their memory that the complainant asked the administrators not to fire Mr. Sargent, and swore that they had sexual intercourse only one time and said it was not Mr. Sargent’s fault because she was the aggressor. One administrator said she distinctly remembers the head of school telling the complainant that it did not matter; it’s always his fault; he is a teacher and you are the student. The administrator confirmed that the head of school may have said to the complainant that she was not “Emma material,” but it was in respect to the vandalism. The administrator explained that the head of school was absolutely firm and had strong sentiments about teacher-student relationships.

The Complainant’s Departure from Emma Willard

The complainant recalled that she asked whether her dad was going to meet her at the bus station, and an administrator replied, “No.” She said she asked if the bus was taking her to the airport and an administrator said “no.” The complainant said she was told she was not welcome at home and that she needed to figure out where to go. She recalled that none of the administrators ever asked her if she was ok. The complainant said that the following day, after being guarded in her room overnight, a teacher drove her to the bus station. The complainant said she asked the teacher if she had the complainant’s money from her student account. She said the teacher handed her a manila envelope with her name on it that contained \$200. The complainant said the teacher told her she was instructed to stay at the bus station until she saw the complainant board the bus.

Administrators recalled that the complainant’s father told the administration to give the complainant \$200 in cash (her Ireland spending money) and to send him the airplane ticket to Ireland. They said the complainant thought she could still go to Ireland even if she withdrew.

We spoke with a former houseparent, who recalled that she spoke to the complainant on the Friday when the complainant shared with her that she was fearful of going home. The houseparent told us that the next day she drove the complainant to the airport, not the bus station, and recalled that on the drive they did not talk about what happened. She said they had a “surface” level conversation, of which, she could not recall the details. The houseparent said she “was trying to break the silence,” but was “not trying to talk to her about what happened at all.” The houseparent recalled that when she arrived at the airport, she did not walk the complainant in, but said she got out of the car and helped her with her bag. She said, at the time, she thought the complainant was going home, but later learned that she had not gone home. Another administrator confirmed, “We did not put [the complainant] on a bus. In fact, we had [an employee] take her to the airport.”

The complainant noted that she thought her parents knew about what happened, but said she later learned from her father that the School “didn’t call my dad to tell him anything that happened.” She said she “didn’t know where to go” if she could not go home. She said the only person she knew in college was at Tulane University in New Orleans. The complainant described

significant personal challenges following her departure from Emma Willard, including a period of homelessness, a longtime estrangement from her family, and long-term emotional impacts.

Letter to the Community

In Robertson's March 11, 1998 memo, she wrote:

I talked with Scott Sargent again on Monday, thanking him for his note on Friday (attached). We discussed his plans and his schedule for his departure. I told him that the school would continue to pay his salary through the end of June. I also told him that a similar situation had come to light and shared with him the letter that I had drafted to go to the parents which would essentially nullify his resignation. He said he understood the need for the letter and did not have any problem with the wording. [Counsel] asked that I have his agreement to the letter witnesses. I did so with Jack Easterling present some time later.

As outlined in the Barton summary, on March 9, 1998, the head of school sent a letter to "Members of the Emma Willard Community (Attached as Appendix VII). In the letter, Dr. Robertson wrote,

The past few days have been very difficult ones in my office. At a time when spirits were high in anticipation of spring vacation and school trips abroad were in the offing, members of the senior staff and I spent many hours in painful deliberations with and about two faculty members.

It is my unpleasant task to inform you that the employment agreements between Emma Willard School and Scott Sargent and Scott Barton, members of the History and Science Divisions respectively, have come to an end, effective immediately. In separate, isolated and unrelated incidents, each of them overstepped the carefully defined and articulated boundaries for faculty-student interaction. As soon as we received substantive information about these situations, I took the necessary action.

The file also reflects that the School spoke with a Detective Sergeant of the Troy Police Department and a representative of the Rensselaer County District Attorney, as well as outside legal counsel for the School. Local media covered Mr. Sargent's (and Mr. Barton's) dismissal in newspaper articles dated March 26 and March 27, 1998, identifying both faculty members by name.

Letters of Recommendation

Sargent's personnel file includes documentation of correspondence relating to letters of recommendation. On April 7, 1998, Mr. Sargent emailed the head of school asking her for a letter of recommendation. On April 9, the School received a request from a potential employer asking for an assessment, but wondering "exactly why [Sargent] would leave at the mid-year point." The dean of faculty forwarded the request to the head of school and wrote, in relevant part, "I'll (we'll) have to call him. But we'd better meet first. Damn." On May 30, 1998, Mr.

Sargent wrote again to the head of school and said he “would very much like to go back to work in the fall, but if you (plural) simply cannot support me in this, I will wait until the fall of ’99.” On June 18, 1998, Mr. Sargent emailed the head of school and said a private school might be contacting the School about him. Mr. Sargent wrote, he “would appreciate any support which you can give me.” The next day he wrote to the School and said he anticipated a job offer and that all he needed was a reference. He said, “I hope that, despite my shortcomings, you will remember the good things I did while at Emma and give me whatever support you can.” There is no indication that the School responded to Mr. Sargent’s outreach at that time.

On May 11, 1999, the head of school provided positive letters of reference to a school and a placement agency in support of Mr. Sargent. The letters make no reference to his termination or the circumstances of his relationship with either the complainant or the alumna from 1996. The letters praise Mr. Sargent, noting, “He would be an asset to any independent school as an individual who combines good classroom skills with a superior capability on the playing field.” The sole equivocation in the letters is an observation that, “As he has matured, his judgement has improved.”

When asked for context about the letters of recommendation, an administrator shared with us that although they would not recommend him today, it was a “different time.” The administrator explained that the complainant was 18 years old, she had withdrawn and the complainant and Mr. Sargent claimed they loved each other. The administrator explained, “It was a year later, I had no reason to know that he was a predator, and I saw no reason to ruin his life.”

Subsequent Contact with Mr. Sargent

The complainant said that later in life, she received a message from Mr. Sargent on Myspace where he told her he thought about her. She said she told him that he ruined her life and, noting that she was about the age he was when they knew each other, told Mr. Sargent that she would never engage in a sexual relationship with a 17 year old. She said that she deleted her Myspace account and got rid of her computer because she felt so violated at his ability to reach into the sanctity of her home.

An alumna from 1997 recalled that after graduation from Emma Willard, she visited the 1996 alumna at college, whom Mr. Sargent was still dating. The 1997 alumna said Mr. Sargent talked about the circumstances of his termination from Emma Willard. She recalled that Mr. Sargent told her that a male administrator had told him, “We all make mistakes,” and that when [the administrator] was a younger teacher he also had a “misunderstanding” with a student. The alumna recalled that Mr. Sargent also told her that the administrator said he would write a recommendation for Sargent if he sought other teaching positions.

Tenth Report 1990s – Non-School Perpetrator

We received a first-person account from an alumna from 1998 (the complainant) who shared that she had been raped off campus during her senior year. The complainant told us that she “experienced a tremendous amount of support” from the School after a delayed disclosure of the rape. She said that the School encouraged her to report the rape to law enforcement, but that she declined to do so. The complainant said that the School provided academic accommodations and

counseling, including securing a rape crisis counselor to meet with her. She said that the School allowed her to take a leave of absence and worked with her to help her graduate on time. The complainant praised the School counselor, Judy Bridges, Trudy Hanmer and her coach for helping her through a tremendously difficult time. She said that the School took a chance and helped her by doing everything they possible could to help her graduate. The complainant said that the School could easily have sent her home, but that the adults chose to help her instead.

Eleventh, Twelfth and Thirteenth Reports 1990s – Male Faculty Member

We received multiple third-party reports about a male faculty member. The first report was an anonymous online submission alleging that the faculty member had an inappropriate relationship with a student from the class of 1982. No further information was provided, and the alumna from 1982 did not respond to our outreach. We spoke with the faculty member, who provided some context, explaining that he and his wife had been close with the student at the time and maintained a friendship after she went to college. The faculty member reflected a nuanced understanding of the evolution of identification and recognition of boundaries since that time.

The second report came from two alumnae from 1995, one of whom shared a rumor that the faculty member had a sexual relationship with a student in the class of 1994. No further information was provided, and the alumna from 1994 did not respond to our outreach. One of the 1995 alumna also recalled thinking that the faculty member was creepy because she and a friend thought he had been looking up their skirt. In contrast, an alumna from the class of 1987 shared her perspective that the faculty member had been unfairly labeled as “a creeper.” She said that he was an easy target because of his demeanor.

The faculty member was aware of the rumor from 1994, which he said was brought to his attention more than 20 years ago. He described the impact of the rumor as deeply hurtful, and said, “That was very troubling for me. It really gives me a clear sense of how these things can get out of hand, how they can be hurtful to other people.”

Both alumna from the 1995 and the alumna from 1987 also reported an unsubstantiated –and demonstrably untrue – rumor that the faculty member had married a former Emma Willard student. This rumor appears to have been pervasive and may have colored or impacted student perception generally.

None of these incidents were referenced in the relevant student files, nor in the faculty member’s personnel file. The file did reflect concerns by a number of students in late May 1999 about inappropriate comments by the faculty member. Trudy Hanmer and Nat Conard, Dean of Students, conducted an investigation under the School’s Sexual Harassment Policy and determined that a formal charge of harassment was “not warranted.” The School concluded that some students were made uncomfortable by the faculty member’s comments on their appearance, but that most of the students did not think he was aware of the impact of his comments. The administrators wrote, “The situation is clearly one where a faculty member, deservedly or not, developed a very unfortunate reputation among the student body. It was clear that tales of his verbal innuendo are the stuff of student rumor and legend . . . It would be unlikely that he could say anything without some student taking it the wrong way; it seems also clear that he has said some things that are at best tasteless and at worst, open him up to charges

of verbal misconduct.” The administrators recommended that the faculty member work with the Dean of Students to develop “a series of guidelines for both behavior and language.”

The faculty member recalled this moment as a learning process. He said that he learned to adjust his comments, which were always well intentioned, “because what might have been common and acceptable in the seventies wasn’t working.”

The personnel file revealed no additional concerns or complaints in the file. To the contrary, the file revealed student nominations for a teaching award. One student wrote, “What he has done for me really goes far beyond classroom. In class, he is rigorous yet patient and gentle; he has a high expectation for us, but I still feel very comfortable because I know he is always here to help.” Another student wrote, “From every warm smile he gives, every help he kindly offers, every lessons I learned from [him], and most importantly, every time he gives care to me like a father. He has gone far beyond the basic duties of being a teacher, dedicate himself every way to this school and care for his students and girls with generous love and his quiet but warm kindness.”

Fourteenth Report 1990s – Female Faculty Member

We received a third-party report from an alumna from 1999 who shared that a female faculty member had an inappropriate interaction with a student in the class of 1999, which caused the student to be involuntarily withdrawn before the start of her senior year. We were able to locate legal documents reflecting that a parent had sued the School, administrators and the female faculty member, alleging wrongful discharge and conduct that included the female faculty member pursuing a friendship with the student, confiding personal matters in the student, laying her head in the student’s lap, lying on the student’s bed while talking, and other encroachments on professional student-teacher boundaries; there was no complaint of overt sexual conduct. The suit was withdrawn, and the student reportedly apologized to an administrator many years later, stating that her mother had been jealous of her close relationship with the faculty member. We spoke with the faculty member, who stated that the allegations arose during her first year as a teacher, and that she had been unaware how to navigate interactions with a student who was disclosing strange information about her own family. The lawsuit was later dismissed in federal court, and the family did not refile in state court within the statute of limitations.

We reviewed the personnel file, which reflected that there have been no other complaints or concerns.

2000s

1. Overview

Through our review, we received three reports concerning three respondents⁴⁹ from the 2000s. One of the reports came from a complainant and two of the reports came from third-party reporters.

2. Applicable Policies and Laws

Throughout the 2000s, the School prohibited sexual harassment and sexual relationships between employees and students via the Sexual Harassment Policy referenced above.

During the 2000s, under the New York Penal Code, a person was incapable of consent to sexual intercourse when he or she was less than seventeen years old.

In the 2000s, the New York Child Protective Services Act continued to require “school officials ... having reasonable cause to suspect that a child under the age of eighteen years has had serious physical injury inflicted upon him by other than accidental means, or whose condition gives indication of other serious abuse or maltreatment” to report the abuse.⁵⁰ As noted above, however, the reporting requirement was limited to suspected abuse or maltreatment by a parent or legal guardian.

3. School Leadership

Trudy E. Hall served as head of school for the entirety of the 2000s.

4. Summary of Information Gathered and School’s Response

Ms. Hall recalled being concerned about the level of supervision in the residence hall, and in 2000-2001, implemented more structure in the supervision and training of interns and houseparents. Administrators recalled that the Hall administration was marked by the formalization of policies and structures, including attention to guidelines and effective practices in the counseling and health center, changing the ratio of houseparents to students in the residence halls, and developing a residential curriculum.

First Report 2000s – Unidentified Female Employee

We received one third-party report from the parent of a student alleging that a female employee in the 2000s had a relationship with a graduate from the class 2000 shortly after her graduation. The parent shared that the alumna from 2000 was staying with the reporter’s family and a female employee came and stayed with the student for a few days. The reporter noted that

⁴⁹ One of the respondents was not affiliated with the School; he was a student at Rochester Polytechnic Institute (RPI).

⁵⁰ 1969 N.Y. Laws 1016-17, as amended by 1977 N.Y. Laws ch. 518.

this was more than a social relationship; she believed it was a sexual relationship based on their interactions. We tried to contact the alumna from 2000, but she did not respond to our outreach.

An administrator confirmed that they later learned from the respondent's former partner that the partner had walked into their apartment and found the respondent in bed with the alumna. The administrator noted that at the time, the alumna was in college and an adult, so they did nothing with the information. The administrator also shared that there were no real time concerns about the respondent other than her "being too close to students."

Second Report 2000s – Justin Dechen (RPI Student)

We received a written account on behalf of an alumna from 2003 (the complainant) alleging that the School failed to respond appropriately to the alumna's report to the School that in the spring of 2001, she had been raped off campus by Justin Dechen, a Rensselaer Polytechnic Institute (RPI) student who was tutoring the alumna. The written account asserted that the School's reaction to the complainant suggested that she was at fault, which caused her substantial emotional distress. The written account also asserted that the complainant was later disciplined by the School for having unsupervised male guests on the School's campus, and as a result was removed from campus housing and required to finish her tenure as a day student. We requested to speak with the complainant, but she declined to participate in our review.

The Troy Police Department confirmed that the rape had been reported to law enforcement and that Mr. Dechen was arrested for Third Degree Rape, Third Degree Sodomy and Endangering the Welfare of a Child. A New York state records check confirmed that Mr. Dechen plead guilty to Sexual Misconduct and was sentenced to time served, followed by three years of probation with a Final Order of Protection.

Third Report 2000s – Female Intern

Through our review, we learned that an intern was terminated in May 2008 for engaging in an inappropriate emotional relationship with a student. The intern was described by many administrators as very popular among the students. A faculty member related that the teacher was "spending a lot of time with particular kids," including borrowing clothes from students. Another faculty member described the teacher as "too buddy-buddy" with students. An administrator recalled conversations with the intern about judgment; observing, "There were sort of raised eyebrow moments where things were a little too close, and she was not receptive to feedback."

On May 19, 2008, a student gave the School a copy of a series of emails between the intern and a student in the class of 2009. The emails, which were inadvertently sent to another student, reflected an emotionally intimate relationship and an awareness by the intern that she was crossing appropriate professional boundaries in her conduct with the student. While this is not reflected in the file, an administrator from the time recalled the intern admitting to kissing the student of concern. The file reflects that when confronted by Trudy Hanmer and Trudy Hall, the intern denied having a physical relationship with the student, but acknowledged that the email exchange could be construed as inappropriate and admitted that "she would be interested in having a relationship with that student 'if I could.'" Ms. Hanmer and Ms. Hall informed the

intern that the School has no option other than to relieve her of her responsibilities immediately. In a May 20, 2008 letter to the intern, Trudy Hall wrote, “As Trudy Hanmer and I explained to you on Monday afternoon, effective immediately, you have been relieved from your professional responsibilities as a consequence of your inappropriate communications with a student.”

The administration alerted the parents of students in the intern’s class by email the day after her termination, and followed up with a mailed notice. The administration later made a school-wide announcement to dispel certain rumors about the incident. An administrator from the time said they “were blown away” by the students’ reactions; some of the students were upset because they viewed themselves as the teacher’s favorite. The School counselor shared that a student made “an embarrassed admission that she was hurt that she wasn’t the ‘chosen one.’” The same student reportedly said, “A lot of people don’t want to know who the girl is because they don’t want to know who one-upped them” with the intern.

An administrator from that era confirmed, “Once it became obvious that it was no longer rumor, but fact – as soon as you had something that became irrefutable,” the School took action and fired the teacher immediately. The administrator said that there was no need for investigation because the email evidence was “irrefutable.” The administrator said that they notified the student’s parents and left it up to the parents to determine whether to contact law enforcement as the School was unable to determine that anything physical had happened. In hindsight, the administrator observed that the better course would have been to report the conduct to police. The file reflects that the School consulted with legal counsel, who advised that no report to law enforcement was required.

2010s

1. Overview

Through our review, we received two reports concerning two respondents from the 2010s. Both of the reports came from third-party reporters (in both case, parents).

2. Applicable Policies and Laws

In the 2010s, the School prohibited sexual harassment and sexual relationships between employees and students via the Sexual Harassment Policy referenced above.

In the 2010s, under the New York Penal Code, a person is incapable of consent to sexual intercourse when he or she is less than seventeen years old.

In the 2010s, the New York Child Protective Services Act continued to require “school officials ... having reasonable cause to suspect that a child under the age of eighteen years has had serious physical injury inflicted upon him by other than accidental means, or whose condition gives indication of other serious abuse or maltreatment” to report the abuse.⁵¹ In 2012, the state legislature expanded the definition of “child abuse” under the Education Law to include the dissemination or attempted dissemination of indecent materials to minors.⁵² Also in 2012, the Education Law was amended to exclude “special act” schools—i.e. those schools that serve students with special needs—because those schools are subject to a different section of the social services laws. There were no other material changes to the Education Law or the Child Protection Services Act in the 2010s.

3. School Leadership

Trudy Hall served as head of school until her sabbatical in October 2015. Susan R. Groesbeck has served as the interim head of school since then.

4. Summary of Information Gathered and School’s Response

First Report 2010s – Male Janitor

We received a third-party report from the parent of a current student who said that her daughter told her that multiple students were having a sexual relationship with a young janitor hired through an outside agency. According to the student, he “abruptly disappeared.” The student believed he may have been under 18, and that the involved students were mostly seniors, except for one sophomore who had since left the school. Because of the real-time nature of this report, we immediately shared the report with the School. The School was able to confirm the janitor’s identity, and discovered that the janitor had been terminated by the cleaning agency on October 4, 2014.

⁵¹ 1969 N.Y. Laws 1016-17, as amended by 1977 N.Y. Laws ch. 518.

⁵² N.Y. Educ. Law § 1125(l).

Second Report 2010s – Male Faculty Member

In January 2017, we received an anonymous online submission alleging that a faculty member, who has since left the School, had a sexual relationship with a student during her senior year. We immediately forwarded the report to the School, who reported the allegation to the Troy Police Department. The Troy Police Department contacted the student of concern who “vehemently denied” any inappropriate relationship with faculty member.

IV. Observations and Conclusions

We received reports about inappropriate conduct from as long ago as the 1950s to as recently as the 2015-2016 academic year. Together, those accounts – and the available information in School files and records – have created a collective narrative of one School’s evolution in institutional responses over the past 60 years – an evolution that largely tracks the evolution of the legal framework, societal understanding of child abuse within secondary schools, and the standards of care in the protection of minors.

A. The Context

As we evaluate the School’s institutional responses to abuse, assault or other inappropriate conduct of which it knew or should have known, we cannot ignore, or extract, the impacts of the context provided by the relevant time frame of the conduct. That context does not excuse, justify or otherwise exculpate individual administrators or the School, but it does provide an important contextual understanding of the how the relevant legal framework and standards of care in place at the time impacted the institutional response. In our combined five decades in this field, we have observed first-hand how institutional responses lagged behind the evolution of laws and societal understanding of abuse of minors. As outlined in Appendix I, this is one of the factors that propelled us to create the Institutional Response Group.

We have each been involved in education, training, prevention and prosecution of crimes against children since the late 80s, and early 90s, respectively. During that time, both the criminal and child protective services laws have evolved significantly. The first mandatory child abuse reporting laws, which focused on medical reporting of physical abuse, were enacted in the mid-1960s across the nation. The federal Child Abuse Prevention and Treatment Act (CAPTA) was not passed until 1974. During this time frame, pediatricians and medical professionals were beginning to publish research about child abuse, focusing primarily on physical abuse and battered children’s syndrome. As a nation, we were much slower to recognize and identify the prevalence and nature of child sexual abuse as a distinct form of abuse. It was not until the late 1970s that discussion within the field first began to focus on child sexual abuse. The decades since then have seen significant shifts in the understanding of sexual abuse by professionals across multiple disciplines. Each decade has brought a more refined and nuanced understanding of the dynamics and impacts of abuse.

At the same time, criminal laws historically penalized forcible conduct, rather than age-based offenses. Similarly, it was not until the mid-1990s that many states began to enact laws prohibiting sexual contact without consent (as opposed to by force or threat of force) as concepts like date rape began to emerge in the legal landscape (often referred to as non-stranger sexual assault). Rape shield laws, preventing the use of a victim’s reputation or sexual character in a criminal court, helped to shift mindsets to focus on the perpetrator, rather than the victim, in evaluating criminal conduct. In recognition of the barriers to, and delays in, reporting by minors, states began to expand statutes of limitations for crimes involving children.

With the advent of mandatory reporting and shifting criminal expectations came increasing awareness. That awareness brought with it renewed attention by the media and legislators, particularly in response to growing awareness of abuse within trusted institutions. Abuse within

religious and educational institutions have led to increased legislative efforts, task forces, and the opportunity to revisit and test existing assumptions about how to best prevent and respond to abuse within institutions.

The context is further complicated by evolving societal expectations and social mores around gender roles, expectations for women regarding marriage and the workplace, sexuality, sexual orientation and gender identity/expression. While we do not pretend to outline the nation's history of increased awareness and legal changes related to sexual misconduct and gender roles, it is important to understand the difference in societal expectations and opportunities for an adolescent female in 1950 and 2017. Nationally, we saw the passage of Title IX of the Education Amendments of 1972, which prohibited discrimination on the basis of sex in educational institutions that receive federal funding. While Title IX does not apply to private educational institutions like Emma Willard, it has dramatically changed the educational opportunities and landscape for girls and young women. Consistent with Title IX's stated mission, Emma Willard in many ways has been at the forefront as a standard bearer in women's empowerment and education.⁵³

At the same time as our nation was making advances in understanding how to best protect minors, in the context of an institution's response to allegations of child abuse, legal advice to educational institutions often narrowly focused on an insurance defense-based approach of protecting the institution from civil liability and minimizing risk to the reputation of the school. Through our extensive work evaluating historical allegations of abuse in the K-12 context, we have far too often seen administrators from the second half of the 20th century prioritize institutional concerns. That focus on the institution, rather than the child, ran hand in hand with a significant lack of insight about the nature and dynamics of child sexual abuse. In our work in this area, we have heard administrators articulate longstanding myths about child abuse – that the word of a child is not sufficient proof to take action, that it doesn't happen here, and that reporting the allegation is not required unless there is the certainty of an eyewitness, injury or some other form of concrete evidence, to name a few. Similarly, human resources practices have long discouraged providing negative references for fear of liability. Many institutions developed an unspoken practice of only verifying name and dates of employment. Schools did not – and in many instances, still do not – share the circumstances of an employee's termination. As a result, the disproportionate reliance on fear of civil litigation and singular adherence to civil litigation principles failed to incorporate an understanding of the subject matter, and has had the effect of distorting strongly held institutional values of care and integrity and inhibiting actions that we would expect of any moral, principled educational institution.

It is only in more recent years that educational institutions have begun to understand and apply a nuanced understanding of the dynamics of abuse, of boundary violations and of grooming in an integrated and coordinated way. The past five years have seen extensive legislative efforts to mandate background checks, training and education, and expanded reporting obligations. We have also seen a significant shift in institutional responses to historical allegations of abuse.

⁵³ See, for example, Carol Gilligan's study at Emma Willard in the early 1980s: *Making Connections: The Relational Worlds of Adolescent Girls at Emma Willard School*, Edited by Carol Gilligan, Nona Lyons and Trudy Hanmer (1990).

Open, transparent approaches that reflect care, acknowledge fault, offer apology, share information, and take remedial action have become far more commonplace.

It is in this context that we evaluate Emma Willard’s response to the reported conduct that was set forth in the Chronology section of this report.

B. Overview of Reported Conduct

In evaluating Emma’s response, it is important to recognize the wide range of reported conduct. The overwhelming majority of accounts concerned suspected or substantiated “consensual” dating or sexual relationships between students and teachers. Those reports spanned the 1960s, 1970s, 1980s and 1990s. In many instances, the student was over the legal age of consent; in other instances, the conduct reportedly occurred *after* the student graduated from the School; and in other cases the age of the complainant remains a question. While the concept of consent is a defense or excuse in some contexts, in the context of a residential boarding school, there are no circumstances that would justify an educator or administrator engaging in a sexual relationship with a student, regardless of the age of the student.

In contrast, we received a much smaller number of reports of forcible conduct, unwanted conduct, or conduct that would violate state law because the student was below the legal age of consent.⁵⁴ Those reports arose in the 1960s (First Report – Female Faculty Member), 1970s (Thirteenth Report – Graham Marlette; Sixteenth Report – Bernie Weinraub), 1980s (Fifth Report – Robert White) and 1990s (Second Report – Male Faculty Member; Ninth Report – Scott Sargent).

In four of the accounts, we learned of a marriage (or long-term relationship) that occurred between a faculty member and a student or recent graduate. Those accounts arose in the 1950s (Alan Buck), 1960s (Second Report – Male Faculty Member), 1970s (Bernie Weinraub), and 1980s (Second Report – Male Faculty Member). We are sensitive to the conclusion that by including those reports within this report, there may be a perception that arises that those relationships were, by definition, inappropriate. We do not make any inference as to the propriety of these relationships beyond the observation that dating relationships that begin within the context of a student-faculty member relationship are not acceptable under today’s standards given current day understanding of the impacts of differences in age, emotional maturity, power and authority. We also observe that the history at Emma Willard of teacher-student unions has likely impacted student perceptions as to the acceptability and appropriateness of sexual relationships between students and teachers.

Finally, in a small number of reports, we learned about conduct that was identified by the School as potentially involving harassment, verbal conduct, physical touching or boundary violations where the conduct did not have an overt sexual component. That conduct was reported in the 1990s (Fourth Report – Male Faculty Member; Fifth Report – Male Faculty Member; Thirteenth Report – Male Faculty Member; Fourteenth Report – Female Faculty Member) and the 2000s (Third Report – Intern). Notably, in each of those instances, the conduct was brought to the

⁵⁴ For this section, we are excluding the reports of forcible rape by non-Emma Willard employees.

School's attention contemporaneously and the School took immediate steps to investigate the conduct.

C. Evaluating the Institutional Response Through the Decades

We begin by observing that until the mid-1990s, Emma Willard had no formal or written policies addressing sexual harassment, sexual assault, professional boundaries or mandatory child abuse reporting. Training efforts were ad hoc, rather than regular and formalized. While this may be consistent, generally, with custom and practice in education for the time, the lack of formalized training and education prior to the 1990s is concerning in light of the history of reports at the School, particularly as it relates to the role and responsibilities of administrators, and the need for written protocols that prioritize the commitment to respond, normalize and reinforce centralized reporting, and establish coordinated institutional responses.

i. 1960s-1970s

Throughout the 1960s and 1970s – prior to Dr. O'Connor – we received information that suggested that administrators knew, or should have known, about widespread and pervasive conduct between male faculty members and students. And yet, we saw little to no administrative response to those reports beyond a stern talking to by the academic dean. Part of this lack of responsiveness is tied directly to the context of the times and the resulting lack of awareness of the dynamics of abuse, grooming, pattern or predatory conduct and similar concepts. In keeping with cultural awareness at the time, there was less understanding that abuse could be committed by educators and professionals – the concept of a sexual offender or predator was much more tied to some external indicia of deviancy or antisocial conduct. Moreover, it was hard to perceive that an educator – college-educated and committed to teaching – would act in a way that could be harmful to minors. Grooming was not yet a term of art – nor was it universally understood that abusers could conceal themselves within an institution by creating an outward image and presentation that belied their true actions.

The dynamics in the 1960s and 1970s were further complicated by the shift in faculty composition under Bill Dietel's administration. Many young male faculty members were hired, with little attention paid to setting expectations for appropriate student-teacher interactions. In fact, having students and teachers socialize at the Gatehouse was not viewed as inappropriate, whereas today, such conduct would be prohibited.⁵⁵ In acknowledging the broader lack of awareness about issues related to abuse, we observed that even when administrators heard of or suspected sexual conduct between students and faculty members in the 1960s and 1970s, it was often discounted as rumor, and administrators had no clear or consistent protocol for responding.

In evaluating the 1960s, we note that the School's response to the concerns involving Patricia Kelly was different in nature and quality from the lack of response to suspected misconduct by male faculty members. We cannot speculate as to the reasons behind the swift – and appropriate – action to terminate a female faculty member when no similar action had been taken with respect to the male faculty members. However, we recognize that the father of one of the complainants threatened litigation against the School if Ms. Kelly was not terminated. Whatever

⁵⁵ We recognize that there was a lower drinking age in New York at the time, and that some students may have been over the legal drinking age. The legal drinking age was 18 prior to 1982; 19 from 1982 to 1984; and 21 as of 1984.

the underlying motivation, the head of school took swift action to terminate not only Ms. Kelly, but also the department chair when she objected to the termination. We also note, in a manner that was quite refreshing in light of the custom at the time, that the head of school's letters of recommendation were qualified and referenced concerns about Ms. Kelly's conduct with students. This stands in stark contrast to the lack of administrative response to reported and suspected male behavior.

As the School moved into the 1970s, we continued to see a blatant lack of response to suspected or reported conduct. Administrators recalled being aware of conduct that should have aroused suspicions and triggered a heightened administrative response, but instead, took no action to investigate suspected misconduct until Dr. O'Connor's arrival in the late 1970s. The conduct in the 1970s reflects a pervasive and persistent pattern of significant sexual contact with students, including repeated behavior by at least four faculty members or administrators (Fred Moon, Mark Johnson, Malcolm Bird, Bernie Weinraub and Graham Marlette). We heard from many alumnae that the conduct permeated the School, and Dr. O'Connor shared a student's perception at the time that "sex ran the School." While we were unable to substantiate four of the reports from the 1970s, the impact of the Gatehouse Gang – and the administration's lack of response – represents a dark chapter in Emma Willard's history.

As highlighted in the chronology, however, Dr. O'Connor's May 2, 1978 address to the faculty represents a shining light during the 1970s. Dr. O'Connor gave voice to the reports and took steps to set clear behavioral expectations, explicitly addressing the School's values and expectation that faculty members should be role models, not sexual partners for students. More than the mere uttering of words, Dr. O'Connor took action to terminate a faculty member – the first termination of a faculty member for inappropriate sexual conduct in 13 years (since Bill Dietel's dismissal of Patricia Kelly).

ii. 1980s

As Emma Willard entered the 1980s, we saw an articulated commitment by Robert Parker to curb the "cult of the male faculty" and continue the efforts that Dr. O'Connor began in earnest. The number of reports in the 1980s dropped significantly – from 19 to seven. Unlike the 1970s, when all of the conduct was reported to have occurred by male faculty or administrators, three of the reports in the 1980s involved young female employees. As with Bill Dietel's introduction of many young male faculty without sufficient safeguards of training and the setting of professional boundaries, the reports involving young female employees corresponded with the introduction of young female houseparents, again without sufficient attention to training or written policy expectations about professional boundaries.

In the early to mid-1980s, however, we continued to see a positive shift in the institutional responses. As early as 1982, administrators were documenting personnel files with written reprimands and letters of warning to administrators who violated behavioral expectations. For example, in the Second Report in the 1980s, the male faculty member was reprimanded for allowing students to smoke on a school trip and later, for allowing students to work on projects after curfew. While neither of those behaviors reflect concerns about sexual misconduct, they speak to a growing awareness by administrators of professional boundaries in teacher-student

interactions. Similarly, in 1984, we saw significant documentation in a female houseparent's file about the need for explicit and clear professional boundaries.

In keeping with the growing awareness of the need to vigilantly monitor and set expectations around professional teacher-student interactions, in late 1987, the School terminated an employee for kissing a student. The School's response in that incident reflects a timely investigative response and an immediate termination.

iii. 1990s

The 1990s represent a somewhat paradoxical window into the School's history. On the one hand, this decade represented the formalization of written policies and protocols. The School's first written Sexual Harassment Policy was promulgated in the mid-1990s. While it did not address mandatory reporting of child abuse,⁵⁶ it set the clear expectation that "inappropriate behavior of a sexual nature can undermine" the School's values and disrupt the living, learning and working environment. The Sexual Harassment Policy encouraged students and employees to report harassing behavior and set forth an investigative protocol designed to protect the rights of both the accuser and the accused. The policy promised an institutional response in "an appropriately swift and fair manner." The Sexual Harassment Policy also provided, "Where legal action is required they will seek legal counsel and act as advised." As outlined in the chronology, that process was used to respond to concerns about non-sexual physical contact by a faculty member, stalking and harassment by a faculty member, and inappropriate comments by a faculty member. These responses demonstrated adherence to a clear protocol, swift and thorough investigation and appropriate remedial steps to address concerns in two of the faculty member's behavior.

In contrast, the 1990s also included reports of extremely concerning conduct by three male faculty members, and a male spouse of a faculty member. Despite several accounts that the School knew or should have known about inappropriate conduct, School administrators took anemic steps to address the conduct in a timely or effective manner. Even conceding that the School may not have had direct information about two of the reports (Second Report – Male Faculty Member and Sixth Report – Male Spouse of Emma Teacher), in the case of Scott Barton and Scott Sargent, the School's own files reflect that the School had more than sufficient information to take action well before March of 1998. We understand that in both instances, there was no complainant who had come forward to complain about unwelcome conduct. Nonetheless, we find that the School knew or should have known that both Mr. Barton and Mr. Sargent were engaged in conduct that greatly exceeded professional boundaries.

In Mr. Barton's case, administrators took steps to address his behavior by warning him that his conduct was inappropriate, the School did not follow the written Sexual Harassment Policy or conduct an investigation of the conduct. Such an investigation, which necessarily would have involved speaking with the complainant, may have led the School to take action during the fall of 1997. In light of the School's clear response to the conduct involving the reports of non-sexual physical contact by a faculty member, stalking and harassment by a faculty member, and inappropriate comments by a faculty member, the contrast to the School's low level response to

⁵⁶ As outlined in the Legal Context, as of 1969, school officials had a mandatory reporting obligation to report suspected abuse or maltreatment when committed by a parent or legal guardian.

Mr. Barton's suspected conduct, further reflects the School's continued struggle in responding to, identifying and resolving allegations of suspected inappropriate sexual conduct.

Similarly, with respect to Scott Sargent, there is ample contemporaneous information that the School knew about Mr. Sargent's relationship with a recent graduate, as well as sufficient information that should have spurred an investigation into the suspected conduct with the 1998 student (the complainant). The file reflects that the School initially took steps to remove Mr. Sargent from campus housing, but inexplicably permitted him to stay even in the face of knowledge that he was engaged in an intimate relationship with a recent graduate. In addition, many students, staff and faculty described an awareness of an inappropriate relationship between complainant and Mr. Sargent, yet none of those individuals appear to have elevated their concerns to administration. We are mindful of the complainant's belief that the illicit emails had been shared with administrators several weeks prior to March 1998, but we cannot reconcile that perspective with the perspective of the 1999 alumna who said she spoke with administrators about the emails on the same day as the complainant's withdrawal from the School, an account which was corroborated by the relevant administrators. Nonetheless, even in the absence of the discovery of the illicit emails, we are concerned about the School's tepid and ineffective response to the concerns that arose during the fall of 1997 and early winter 1998, as reflected in contemporaneous School records.

In both the Barton and Sargent matters, once the School had uncontroverted evidence of an inappropriate relationship, the School dispensed with the need for an investigation and immediately terminated Mr. Barton and Mr. Sargent's employment. That action was both swift and appropriate in light of the information disclosed to the School in early March 1998.

With respect to the Sargent report, while we find the complainant's description of her later interactions with Scott Sargent as unwelcome credible, we found insufficient information to support an inference that the complainant informed the School on March 6, 1998 that the conduct was unwelcome. We understand that administrators spoke with the complainant's father on March 6, nonetheless, we are concerned that the complainant was permitted to leave the School on her own. We acknowledge that the complainant was 18 years of age, and had just committed a severe violation of School rules by vandalizing another student's room; however, the circumstances suggest that the complainant was a student in great distress who was in need of counseling and intervention. We recognize the luxury of hindsight in evaluating the School's response, but observe that the School's interaction with the complainant was not consistent with the caring and appropriate manner we saw the School demonstrate with two other students who reported off campus rapes. In light of the gravity of the circumstances, the School should have taken steps to ensure that the complainant was safely returned to the care of her parents.

In the continuing paradox of the 1990s responses, on March 9, 1998, the School publicly shared the circumstances of the terminations, identifying both faculty members by name and noting that, "In separate, isolated and unrelated incidents, each of them overstepped the carefully defined and articulated boundaries for faculty-student interaction." We view both the terminations and the sharing of that information transparently as an appropriate institutional response. In addition, the School revised the Sexual Harassment Policy to include an explicit prohibition of "sexual relationships or activities between any member of the Emma Willard School faculty or staff and

any student.” The Policy stated that such relationships or activities are “improper, prohibited, and a basis for immediate dismissal from the School.”

And yet, one short year later, the School provided Mr. Sargent with two letters of recommendation that made no reference of the termination or the gross violation of professional boundaries for faculty-student interaction. This action by the School is not in keeping with the School’s earlier community letter about the conduct and stated institutional values.

iv. 2000s-2010s

The past seventeen years represent a far different Emma Willard. Under Trudy Hall and Interim Head of School Sue Groesbeck, the School implemented integrated and coordinated policies and protocols across a wide range of areas critical to student success, including counseling, the health center, the supervision of houseparents and the residence halls. These changes were consistent with changes happening nationally in the educational context. For an overview of current School policies, practices and initiatives, please see the section on Ongoing Efforts by Emma.

Notably, the School received only one direct report between 2000 and 2016. In that report, the School took action to immediately terminate the employee (a female faculty member). The four other reports in the 2000s concern an off campus rape by a non-Emma assailant, where there was a criminal conviction, and three third party reports shared with us after the initiation of this review, none of which were reported contemporaneously or directly to the School.

We also note, as described below, that the School has engaged in significant educational efforts to prevent misconduct, to set appropriate behavioral expectations, and to reinforce a centralized institutional response to reporting and responding to concerns about student welfare and safety. As an example, the School’s current reporting policy goes above and beyond legal requirements, which are limited to the reporting of abuse or neglect by a parent or legal guardian of a child. The policy provides, in relevant part:

In addition to the requirements of New York State law as set out herein, School employees and employees of contracted service providers have a duty under School policy to report suspicions of child abuse or maltreatment committed by anyone, not just a parent or other person legally responsible for the child’s care, to a member of the School’s Administrative Council or a Designated Trustee. If the alleged perpetrator of the abuse is not a parent or other person legally responsible, pursuant to Emma Willard policy, a report must be made to local law enforcement.

D. Additional Observations

i. Barriers to Reporting

A common theme expressed by many interviewees relates to barriers to reporting. Recognizing that there is significant underreporting, particularly in the adolescent population, of child abuse and sexual assault, we heard strong perceptions by alumnae from earlier generations that student concerns would be met with disciplinary consequences, rather than support, care and concern. We recognize that this may be a perception – rather than a reality – as we did not find objective

information to support the anecdotal accounts shared with us. However, in the absence of strong communication to the contrary, perceptions often become reality for young students and the perception that the administration is not a safe space to share concerns can inhibit reporting.

As an additional barrier to reporting, the School's failure at earlier times to respond to third party reports, often described as rumor, or to maintain written policies and set clear expectations, may have contributed to normalizing conduct between students and adults that would otherwise be inappropriate. In the absence of a stated norm and prohibition, which was explicitly added in June of 1998, students often relied on perceptions, even if erroneous, to define appropriate conduct and mores. Many alumnae from the 1970s and 1990s shared with us that the conduct was so pervasive that they assumed the School was aware and hence, tacitly approving the conduct.

In light of these observations, a critical step to reducing or eliminating barriers to reporting is open and transparent communication about boundaries, the identification of prohibited conduct, and importantly, the identification of resources and support for reporting, safety and welfare concerns. Consistent with current policies and practices, students and employees must be provided with relevant and age appropriate education and information, encouraged to share concerns with School employees, and be met with care and concern when they choose to come forward to disclose those concerns.

ii. Barriers to Effective Responses

While we did not make specific findings about the functioning of senior administrative teams, we did observe significant dysfunction at various moments throughout Emma's history. In many eras we saw deeply divided administrative teams, with factions that resulted in the hoarding – rather than the sharing – of information. Administrators and students alike both described some elements of secrecy in administrative responses, even within the administration. Triangulation of information was another concern, as was a lack of trust between administrators in some instances. This set the stage for inconsistent institutional responses, and the challenges in personalities of personnel were reinforced by the lack of a policy or protocol that could drive coordination and a shared understanding of the issues.

Effective institutional responses require a coordinated and integrated multidisciplinary approach to reporting and the sharing of information. To achieve centralized reporting and informed responses, written policy and protocol are critical to both serve as the standard bearer and reinforce behavior over time. Given the School's lack of written policies before the mid-1990s, challenging dynamics in the leadership teams likely exacerbated ineffective institutional responses.

V. Ongoing Efforts by Emma

The School has engaged in recent and ongoing efforts in their commitment to address the reporting, training and education around healthy boundaries, sexual abuse and misconduct. As outlined on the School's Healthy Boundaries webpage, the School has taken numerous steps to implement enhanced policies and procedures, establish the Alumnae Advisory Task Force and partner with Culture of Respect.

In 2016, the School updated policies and procedures in both the student handbook, Fine Print, and the Employee Handbook to address the prevention, reporting and response to prohibited conduct. In Fine Print, the School added the Safe Harbor Policy to serve as an amnesty provision in an effort to prioritize student safety over discipline, to encourage reporting and to break down any barriers to reporting misconduct. The school also expanded its Sexual Harassment Policy to include sections on Sexual Assault, Abuse and Exploitation, Sexual Assault Protocol, and on and off-campus reporting options. In the Employee Handbook, the School added Guidelines for Maintaining Appropriate Students [sic] and Employee Boundaries, expanded the Sexual Harassment and Abuse policy to include definitions of prohibited conduct relating to harassment and abuse, expanded protocols relating to reporting and investigations, and expanded the policy on New York State Child Abuse and Maltreatment Reporting.

In the summer of 2016, the Board established the Alumnae Advisory Task Force (AATF), which is comprised of seven volunteer alumnae with expertise and commitment to the issue of sexual assault. The AATF was charged with reviewing current policies and practices regarding the education, prevention and reporting of sexual abuse and misconduct. The AATF took on three main tasks: (1) review and provide guidance on policies and procedures for sexual harassment and abuse, employee and student handbooks, and interactions with administration, faculty and students; (2) ask questions regarding areas of sexual harassment and abuse, and (3) present written findings and recommendations. The AATF gave an interim report to the Board at the January 2017 Board meeting. A final report is expected in the early spring.

In the fall of 2016, Emma Willard partnered with Culture of Respect, an external advocacy organization, to assist in the School's efforts to ensure for the preventing, reporting and appropriate response to sexual abuse on campus. Culture of Respect's programming includes engaging the entire Emma community in the implementation of policies, procedures and practices that shift to an educational environment free from harassment. Working with Culture of Respect's Blueprint, Emma developed a core leadership team to address: survivor support with options on reporting; clear policies on misconduct, investigation, adjudication, and sanctions; multi-tiered education for the entire campus; public disclosure of statistics; school-wide mobilization with student groups and leaders; and ongoing self-assessment.

VI. Conclusion

The concerns we observed at the Emma Willard School reinforce the importance of clear, effective and consistent communication that maintains awareness, reflects community and institutional values, reinforces professional boundaries and appropriate relationships, and encourages and rewards concerned individuals for sharing concerns. We understand that we may not be able to completely eliminate predation, but as the Emma Willard School has demonstrated in the past twenty years, educational institutions can take significant steps to create a culture where shared commitment to the protection of minors is reflected by vigilance and coordinated efforts.

A key principle in developing effective institutional responses to sexual misconduct is permission – permission to the child or student to identify conduct as uncomfortable or wrong, permission to adults and employees to raise concerns about boundaries or suspected misconduct, and permission within the institution and community to embrace the tension and speak openly about concepts of child abuse, professional boundaries and shared institutional goals of preventing and responding appropriately to abuse and misconduct. We hope that this report helps to reinforce that permission for the Emma Willard community.

Appendices

Appendix I	Investigator Background and Qualifications
Appendix II	History of the Engagement
Appendix III	Abuse of Minors
Appendix IV	The Legal Context
Appendix V	May 2, 1978 Dr. O'Connor Address to the Faculty
Appendix VI	March 11, 1998 Dr. Robertson Memo to File re: Barton
Appendix VII	March 9, 1998 Letter re: Barton and Sargent
Appendix VIII	March 11, 1998 Dr. Robertson Memo to File re: Sargent

Appendix I: Our Background and Qualifications

In the educational context, we bring a unique background and skillset that comes from evaluating thousands of allegations of sexual abuse, assault, and misconduct in the context of criminal laws, child protective service requirements and institutional policies. Together, we have dedicated more than five decades of our professional careers to responding to child abuse, sexual assault and interpersonal violence. As career child abuse, sexual assault and domestic violence prosecutors, we observed firsthand the need for improved systems, expanded resources, comprehensive training and education, and increased awareness of the dynamics of abuse in the institutional setting. We understand the need for fair and impartial processes for investigations and resolutions that incorporate an understanding of the impacts of trauma on a victim, barriers which create delays in reporting, grooming and predatory behaviors, and the myriad of reasons abuse can remain undetected in educational institutions. As educators, consultants and advisors, our service to institutions is based on the depth and breadth of our experience. As a direct outgrowth of working with thousands of victims of interpersonal violence in the context of the law, our advice and counsel are informed by our deep understanding of the complex legal framework and the dynamics of child abuse, sexual and gender-based harassment and violence, and the psychological impacts of these issues on individuals and communities. Our commitment to understanding victimization within the context of fair and impartial processes is evident in our professional histories, our continued pro bono work, our board service and our multiple community awards and recognition received for our dedication to this work.

Over the past several years, K-12 schools, colleges, universities and other educational and institutional settings nationwide have engaged in the proactive – and at times, reactive – assessment of policies and implementation practices related to the protection of minors and issues of sexual and gender-based harassment and violence. As societal awareness of the impacts of educator abuse has increased, many educational institutions have sought to respond with openness and transparency by conducting internal reviews and sharing the outcomes of those reviews with their communities. Educational institutions have also responded to the complicated and ever-evolving law and training requirements to improve the effectiveness of institutional responses. We have had the opportunity to work with hundreds of private and public institutions across the country in shaping policy, structuring systems, supporting effective implementation and delivering training and educational programs. We have been asked to testify before state task forces and regularly provide training for first responders, law enforcement officers, child protection workers, medical professionals and judges about the dynamics of child abuse, forensic interviewing and effective multi-disciplinary team practices. At the post-secondary level, we have also had the opportunity to work directly with the Department of Education, the Office for Civil Rights, the Negotiated Rule Making Committee for the Reauthorization of the Violence Against Women Act, the American Law Institute’s Project on Campus Sexual Assault, the White House Task Force, and to present educational and training programs through the Clery Center and other professional organizations dedicated to improving educational institutional responses to child abuse and sexual and gender-based harassment and violence. We are committed to changing the national conversation with respect to institutional responses by building the framework to develop compassionate, trauma-informed and compliant practices that tend to the individual needs of students and employees as well as the institutional needs for integrity and transparency. Indeed, we start our work at each institution by “flipping the lens” and viewing policies, procedures and practices from the perspective of those served.

The lessons learned from the perspectives of individuals impacted by child abuse and sexual and gender based violence at institutions across the country inform our observations and recommendations.

For more information about our practice or background, please see:

<https://www.cozen.com/practices/institutional-response-group>

<https://www.cozen.com/people/bios/smith-gina-maisto>

<https://www.cozen.com/people/bios/gomez-leslie>

Appendix II: History of the Engagement

I. Initial Engagement

In November 2014, the Emma Willard School contacted Gina Maisto Smith and Leslie M. Gomez, then of Pepper Hamilton LLP, to discuss how we might be able to assist the School in responding to two historical allegations of sexual abuse occurring at the School in the 1970s. In December 2014, Trudy Hall, then Head of School, and Judy Kleiner, then Chair of the Board, engaged Pepper to provide legal advice and guidance that included thorough and trauma-informed fact-gathering; communications with the two identified complainants and relevant witnesses, including alumnae and former administrators; coordination and sharing of information with law enforcement; analysis of relevant statute of limitations; and direct counseling to the School and the Board about effective institutional responses to historical allegations of sexual abuse.

Between January 2015 and May 2015, Pepper conducted a review of the concerns raised by two alumna, one from the class of 1975 about Graham Marlette, a drama teacher, and one from the class of 1976 about Bernie Weinraub, a history teacher. We interviewed the complainants, alumna and former administrators to evaluate and understand the School's response (or lack thereof) to the conduct. In early May 2015, we met with Chief John Tedesco of the Troy Police Department, along with Trudy Hall, to share information gathered in the review. One of the two identified complainants from this early phase of the review later met with the Troy Police Department; one of the two complainants declined to do so and asked that her name not be shared with law enforcement. While we understood that the statute of limitations had expired for any criminal prosecution, Chief John Tedesco committed to reviewing the matters to see if there were other reports related to the named respondents and whether there was any action that could be taken vis-à-vis their current interaction with minors, if any.

During the course of the 2014 engagement, we provided periodic updates to the Executive Committee of Emma Willard's Board of Trustees about the information gathered in our review. On May 16, 2015, we provided an in-person report to the full Board. As part of that report, we recommended that the Board of Trustees share the information gathered in the review with the community. That communication included a public acknowledgement and apology for the conduct, an invitation for additional affected community members to come forward, an overview of current School policies and practices, and an affirmation of the School's commitment to protecting the welfare of students. At the time, the Board of Trustees approved the release of a communication, but voted to appoint a committee to review the proposed communication and consider the inclusion of additional content in the letter (including a reinforcement of the School's responsibilities, more detailed information about current policies and practices, and expanded information about resources and reporting options).

Our work with the School slowed significantly after the May Board meeting. We understood that the School was continuing to explore the release of a community letter, but we were not active participants in those conversations after May 2015. We continued to have periodic communications with the complainants, as did Trudy Hall, until August. Those communications were primarily about the complainants' ongoing communications and decision-making process regarding speaking with law enforcement. In August 2015, one of the two complainants from

the 1970s, requested financial compensation from the school. Because issues related to civil litigation were outside the scope of our engagement, we referred the matter to the Executive Committee of the Board. In that same communication, we also shared with the School our continued expectation that the School would be issuing a letter to the community regarding the historical allegations of abuse that had come to light. In October 2015, we received an email from the complainant who had requested financial compensation stating that she had met with an attorney and he instructed her to cease communication with Emma “for now.”

In the meantime, in July 2015, Trudy Hall requested and was granted a sabbatical, and while on leave, decided to leave Emma Willard. In October 2015, Sue Groesbeck was appointed as Interim Head of School. Board leadership also changed, and Elizabeth “Lisa” Lefort assumed the role of Board Chair. It is our understanding that Ms. Hall maintained supervision of this engagement until her separation from the School in early 2016.

II. Expanded Engagement

In February 2016, at Ms. Lefort’s request, we provided a detailed update as to the nature of our engagement. We were also asked to be available, if needed, for the May 2016 Board meeting.

On April 26, 2016, a student from the class of 1998¹, contacted the School to share her account of sexual assault by Scott Sargent, a faculty member who was terminated in 1998 based on his conduct with the student. The student also shared her account publicly, including with other alumnae. We were not involved with the School’s response to this outreach, because similar to the complainant in August 2015, issues related to civil litigation were outside our scope of engagement (and our practice area). In May and June 2016, we continued to work with the School to create a formal reporting protocol and to review the updated community letter.

The School released the protocol and an updated community letter on [June 8, 2016](#), with a follow up letter on [June 22, 2016](#).² In June 2016, the Board Chair, Lisa Lefort, asked us to expand the scope of our review to include all allegations of historical abuse. Ms. Lefort announced the review to the alumnae community on [July 8, 2016](#).

We have asked for all survivors to come forward with their information on this or any other incidents, so that the narrative that emerges is complete, encompassing and accurate. We promise to make it safe for all survivors to tell their story. We protect their honesty with understanding and, if they request, confidentiality. We ask for your patience, recognizing that this investigative process will take time. We know this may not be a welcome answer, but it is the one we feel compelled to give presently if we are to treat every survivor with sensitivity and care. We will all find out what was done right, and what was done wrong.

The School posted additional information about the investigation on [July 26, 2016](#).

¹ While the student has shared her name publicly, to be consistent with our practice with respect to the privacy of all students and alumnae who participated or were identified in our review, we do not use the student’s name here.

² In addition to these hyperlinks, the School’s communications are available on the School’s healthy boundaries webpage. See <https://www.emmawillard.org/healthyboundaries>.

On July 28, 2016, we hosted a webinar for alumnae and interested community members. The webinar was designed to provide candid and direct information about the nature of the review, as well as information about our background and qualifications of the investigators. It also provided a forum for alumnae to pose questions. In addition to the School's invitations to the community to participate in our review, we created an online forum to allow interested community members to provide anonymous comments to the investigators.

Appendix III: Abuse of Minors

I. The Nature of Child Abuse

Research demonstrates that a child is most likely to be abused by a parent, caregiver or individual known to and trusted by the child's family. Those who abuse minors often intentionally acquire roles where they have both unsupervised access to a child, and are in a position of authority over the child. Examples include babysitting, coaching sports, teaching, and/or doing volunteer work with children. These roles are designed to facilitate trust among the child, his or her parent, and the offender. Grooming behaviors, which often mimic innocent or positive mentoring, caring and appropriate behaviors can complicate the child's ability to identify or understand the nature of the conduct. Similarly, the relationship of trust, the level of authority or custodial control the offender has over the child, and the child's age and access to other adult resources can dramatically impact when – or if – abuse gets reported. Finally, lack of understanding and awareness of the dynamics of abuse and societal disincentives to “report” on a co-worker impact whether adults recognize or feel empowered to speak up.

A. Grooming Behaviors

Grooming refers to those behaviors designed by an adult to break down the normal barriers that exist between an adult and child in order to support or facilitate sexual victimization with the child. These interactions usually involve desensitizing children to sexuality and emotionally manipulating the child. Grooming often sets the tone or context for later abuse by preparing or making victims accustomed to later sexual assault, and serves as a means of ensuring victims' compliance and allowing the offender to maintain the abusive relationship.

Through the grooming process, a sexual offender builds a rapport and emotional connection with a child in order to gain their trust, only to turn the relationship into something of a sexually abusive nature when the child's defenses are down in order to avoid resistance by the child. In other words, “grooming works by mixing positive behaviors with elements of abuse” so as to confuse and easily coerce the victim.³ In today's technological world, grooming is not a behavior that necessarily has to occur in person; it can also be done online through social media and video chatting, and/or by text messaging and phone calls.

It is important to note that in order to gain unsuspecting access to the victim, grooming behavior is not limited only to the victim. “In many sexual assaults, the victim's environment must (also) be groomed prior to, during, and after the assault to ensure continued access to the victim and minimize discovery or disclosure of the assault.”⁴ Parents, other family members, school faculty and administrators, church members, and sports coaches and volunteers are all examples of individuals in a child's environment. The more effectively an offender can groom the individuals in the child's environment, the less likely it is that the offender will be reported and the lower the probability of the reporting victim being believed.

³ Samsel, M. (2013). Grooming. Retrieved from <https://www.abuseandrelationships.org/Content/Behaviors/grooming.html>

⁴ Brake, S., & Tanner, J. (2013). Exploring Sex Offender Grooming. Retrieved from <http://www.kbsolutions.com/Grooming.pdf>

Once the offender has selected a potential victim – often a child who displays signs of low self-esteem, vulnerability, emotional deprivation, and isolation – and feels as though the environment is secure, the offender will begin gaining the child’s trust and filling the child’s needs with gifts, affection, or attention.⁵ This may be in the form of providing the child with tangible gifts like money, clothing, tickets to sporting events, or vacations, but also may be favors or special privileges provided to the child due to the professional position that the offender is in such as grade changes, registration for restricted classes, private office hours, or excuses from classes. The offender will do everything they can to find commonalities with the victim and engage the victim as though they are an adult. Keeping secrets is one of the key factors in treating the child as an adult, as it “sends the message to the child that they can be trusted, that they are ‘special’ and have access to something others don’t.”⁶

In order to continually engage victims and keep them in this special ‘adult’ bond or relationship, the offender may lure the victims. For adolescent males, the behaviors typically focus on driving, drinking/drugging, dirty pictures, and other special desires. For younger males and all females, the luring focuses more on “the emotional goal of affirmation” and typically focuses on telling the child they are loved, appearing interested in everything they do, taking the child’s side in their daily drama, giving presents, and an actual offer of a relationship – particularly for female adolescents.⁷ This behavior pulls the victim in closer to the offender, while pushing away all other important adults in the child’s life.

This progression often occurs simultaneously with non-sexual physical contact (hugging, rubbing, hair brushing, accidental bumping, wrestling, tickling, etc.). This behavior will begin to occur regularly which will, in essence, desensitize the child victim for when behavior turns sexual in nature (prolonged touching of the victim, exposure/touching of genitals, or sending pornographic images/recordings of oneself).

B. Delay in Reporting

Reporting in the context of child sexual abuse is often delayed. There are myriad reasons for the delay. As most offenders are known to their victims, care or concern for the offender often contributes to a delay in reporting or not reporting at all. Other causes include but are not limited to a victim’s lack of awareness that the conduct is wrong, fear of harm by the offender, fear of punishment for engaging in the conduct, fear that others will think less of them, and fear that they will lose some special status. The range of factors is unique to each victim’s experience. Whenever there is a delayed report it is vital to explore the context and the stated reason for such a delay.

Once the behavior of the offender reaches a level that is sexual in nature, and often times even before that point, a victim may feel trapped. If the victim notices the abuse and is outspoken to the offender, the offender might consider using continued or ongoing grooming as a more intimate and discretionary tactic to continue the abusive behavior. Excuses of “it was an

⁵ Maryland Coalition Against Sexual Assault. (n.d.). Behaviors of Sexual Predators: Grooming. Retrieved from <http://www.icmec.org/wp-content/uploads/2016/05/Behaviors-of-Sexual-Predators-Grooming.pdf>

⁶ Brake, *supra*.

⁷*Id.*

accident” or “you were so beautiful I couldn’t resist” or “I was drunk” or “Come on, you know you wanted it” – especially when the victim’s body physically responded to the assault – are commonplace.⁸ Victims are often offered rewards or consolation gifts in return for silence, while the offender will continue his/her behavior, further desensitizing the victim. Because of this, “the child may not fully comprehend that the abusive behavior is wrong, and the offender’s insistence on secrecy is also a powerful influence.”⁹

One of the most common reasons for a delay in reporting is in the context of an offender who has some measure of power or authority over the victim by virtue of age, education, employment or other circumstances that allow an offender to have control over a victim’s freedom to disclose. Frequently, adolescent victims are afraid to report abuse due to direct and indirect threats from the offender. These threats can take one of several forms:

1. Direct threat of violence against the victim or someone close to the victim
2. Risk that the offender will get into trouble (if grooming was effective, this threat may prove powerful)
3. The offender will tell the victim that even if s/he reports the abuse, no one will believe them.
4. The offender will place significant guilt and shame on the victim, claiming that if the abuse is reported, then everyone will find out what the s/he has done
5. Protection of others may also be a factor in a victim choosing not to report abuse. For example, if a victim is on a sports team and the offender is the coach, getting the coach in trouble and therefore leaving the team without a coach could be seen as potentially damaging to the entire team, so non-reporting will allow the coach to still lead the team. If the offender is a parent, the victim may feel that by reporting the abuse, s/he could be directly responsible for breaking up the family.

While it may seem obvious that an adult who witnesses, or even suspects, the sexual abuse of a child would report the allegations immediately, there are actually a myriad of apparent barriers to reporting. Adults may think that maybe what they’re hearing or seeing is a one-time-thing, it’s not their place to get involved, there is no legal obligation to report, or that maybe they can handle the situation on their own instead of reporting. In addition, the bystander effect – the belief that if the conduct was that bad, someone else will report it - can inhibit reporting.¹⁰

Adults may also hesitate reporting because they simply don’t know the appropriate authority to report the abuse. Victims may choose to disclose reports of abuse to someone close to them only to ‘get it off their chest,’ but don’t want that person to report for the same reasons they did not want to report themselves (any reason listed in the prior section). Lack of reporting could also be attributed to more complicated factors:

⁸ Brake, *supra*.

⁹ *Investigation and prosecution of child abuse* (3rd Ed.). (2012). Thousand Oaks, Calif.: Sage.

¹⁰ Pappas, S. (2011, November 15). Child Abuse: Why People So Often Look the Other Way. Retrieved from <http://www.livescience.com/17031-penn-state-child-abuse-eyewitness-psychology.html>

1. The offender is a powerful/prominent figure and the adult either fears retaliation from others
2. The adult has a relationship with the offender (family member, coworker, friend, etc.) or is worried about the negative impact may have on his/her relationship with the victim
3. The adult finds it difficult to believe the victim's disclosure of abuse, because the details may seem ambiguous or unsupported by other evidence, the victim may provide inconsistent reports, or the victim may initially report but then recant

In recognition of these dynamics, child abuse reporting frameworks place the impetus on reporting suspected abuse, and relieving mandatory reporters from any duty to investigate or evaluate the conduct before making a report.

C. Abuse of Power or Authority

Many of the reports shared by members of the Emma Willard community related to accounts where adults, charged with educational responsibilities and oversight and authority consistent with that responsibility, took advantage of that position of power. The power differential is a significant element that contributes to both the acquiescence in the conduct and the delay in the reporting.

In addition, because of the overlay of grooming behaviors within the power differential, many adolescents may identify the relationship as consensual at the time, but with the benefit of maturity and hindsight, the coercive and subtle (or overt) nature of the abuse becomes apparent. We note that while many individuals in this report identify the conduct as consensual in nature, we recognize that the concept of consent, even for a student of legal age of consent, is difficult to analyze in the context of the power dynamics. There are no circumstances under which a sexual relationship, consensual or not, is appropriate between an employee, administrator or faculty member and a student in a primary or secondary educational institution.

Appendix IV: The Legal Context

I. Mandatory Reporting Responsibilities

In New York, the child abuse reporting law was enacted in 1964 as part of the penal law.¹¹ It required doctors and surgeons to report signs of child abuse.¹² The list of those required to report abuse gradually expanded and by 1969 included “school officials.”¹³ The law in 1969 required school officials “having reasonable cause to suspect that a child under the age of sixteen years has had serious physical injury inflicted upon him by other than accidental means, or whose condition gives indication of other serious abuse or maltreatment” to report the abuse.¹⁴ Today, child abuse reporting laws in New York arise from two main areas: the social services law and the education law. The education law, included here for reference, does not apply to private institutions.

A. Social Services Law Section 411 et seq.

The social services law dates back to the mandatory reporting law that first applied to doctors and physicians in the 1960s.

The Child Protective Services Act of 1973 greatly expanded the list of individuals required to report child abuse or child maltreatment enumerated in the social services law, and the requirements of a child protective services agency to investigate those allegations. The law at that time required the following individuals to make a report when they had “reasonable cause to suspect that child coming before them in their professional or official capacity is an abused or maltreated child:”

“any physician, surgeon, medical examiner, coroner, dentist, osteopath, optometrist, chiropractor, podiatrist, resident, intern, registered nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, a Christian Science practitioner, school official, social service worker, day care center worker or any other child care or foster care worker, mental health professional, peace officer or law enforcement official.”¹⁵

The act required school officials or individuals enumerated above acting in their professional capacities as a member of the staff of the school to “notify the person in charge” of the school, who was then also responsible to report the conduct.¹⁶ Mandated reporters were required to orally report the conduct to the “statewide central register of child abuse and maltreatment” unless the appropriate local child protective services plan required the report to be made to local authorities.¹⁷ Mandated reporters were also required to provide a written report to local child

¹¹ 1964 N.Y. Laws 1386 (repealed by 1965 N.Y. Laws 1897).

¹² *Id.*

¹³ 1969 N.Y. Laws 1016-17.

¹⁴ *Id.*

¹⁵ 1973 N.Y. Laws 2910-2911.

¹⁶ *Id.* at 2911.

¹⁷ *Id.*

protective services entities.¹⁸ The penalty for willful failure to report abuse was a Class A misdemeanor, and the act further provided that person or institution who willfully failed to report was subject to civil liability.¹⁹

The legal definitions for “abused child” and “maltreated child” were largely circumscribed by the Family Court Act in effect at the time.²⁰ The social services law defined “abused child” in the same way as the family court law, and a maltreated child as “a child under eighteen years of age: a) as defined as a neglected child by the family court act; or (b) who has had serious physical injury inflicted upon him by other than accidental means.”²¹ The family court law in turn defined abused child as:

“a child less than sixteen years of age **whose parent or other person legally responsible for his care** (i) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or (ii) creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or (ii) commits, or allows to be committed, an act of sexual abuse against such child as defined in the penal law”²²

Along the same lines, the family court law definition of “neglected child” included:

“a child less than eighteen years of age (i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired **as a result of the failure of his parent or other person legally responsible for his care** to exercise a minimum degree of care (A) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or (B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by using a drug or drugs; or by using alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; or (ii) who has been abandoned by his parents or other person legally responsible for his care.”

¹⁸ *Id.*

¹⁹ *Id.* at 2913.

²⁰ *Id.* at 2910.

²¹ *Id.*

²² 1970 N.Y. Laws 2995-96. The term “person legally responsible” was not defined in the 1973 version of the mandatory reporting statutes.

In 1977, the law was amended so that the definition of abused child included a child less than 18 years of age.²³

The mandatory reporting law, located at Section 411 et seq. of the social services law, has since expanded in various ways. In 1985, the list of mandatory reporters expanded to include “volunteer in a residential care facility.”²⁴ In 1988, “provider of family or group family day care” and employee of a residential care facility were added.²⁵ Also that year, the law was amended to expand the definitions of abused child and maltreated child to include handicapped children, and to include a requirement that schools provide written information about reporting requirements to new employees.²⁶ In 2007, the definition of school officials was clarified to include “school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate.”²⁷ That amendment also specified that once a mandatory reporter alerted the person in charge of the school “or his or her designated agent,” that person was then “responsible for all subsequent administration necessitated by the report.”²⁸ Today, the current list of individuals required to report “when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child” includes:

any physician; registered physician assistant; surgeon; medical examiner; coroner;
dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident;

²³ 1977 N.Y. Laws ch.518.

²⁴ Under that law “Residential care” was defined as “(a) foster care provided to a child whose care and custody or custody and guardianship has been transferred to a social services official and such care is provided in a group home or child care institution; (b) care provided a child in a facility or program operated or certified by the state division for youth pursuant to article nineteen-G or nineteen-H of the executive law, excluding foster family care; (c) care provided a child in the New York state school for the blind or the New York state school for the deaf, pursuant to the provisions of articles eighty-seven and eighty-eight of the education law; (d) care provided a child in a private residential school which is within the state and which has been approved by the commissioner of education for special education services or programs; (e) care provided in institutions for the instruction of the deaf and the blind which have a residential component, and which are subject to the visitation of the commissioner of education pursuant to article eighty-five of the education law; (f) care provided through a residential placement of a child with a special act school district listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended; or (g) care provided a child in a residential facility licensed or operated by the office of mental health or the office of mental retardation and developmental disabilities, excluding family care homes; risk of death, serious protracted disfigurement, protracted impairment of physical or emotional health or protracted loss or impairment of the function of any organ.” 1985 N.Y. Laws 2888-89. Provisions related to abuse in a residential care situation were eventually moved to their own subsections in 2008, and then repealed in 2012.

²⁵ 1988 N.Y. Laws 2784.

²⁶ 1988 N.Y. Laws 2782-84.

²⁷ 2007 N.Y. Laws ch. 193 (McKinney’s).

²⁸ *Id.*

intern; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined [by the public health law]; day care center worker; school-age child care worker; provider of family or group family day care; employee or volunteer in a residential care facility for children that is licensed, certified or operated by the office of children and family services; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.”²⁹

The law continues to require the mandated reporter to report the conduct to the “person in charge” of the school or that person’s designated agent, it continues to require reports by phone followed by written reports within 48 hours to the local child protective services agency,³⁰ and it continues to carry a Class A misdemeanor charge along with potential civil liability for a willful failure to report.³¹

The law also continues to be governed by the definitions of “abused child,” “neglected child” and “person legally responsible” from the Family Court Act, which remain virtually unchanged since the 1970s, and which create a limited scope in the mandatory reporting law because these definitions only contemplate abuse committed by a parent, guardian, or custodian. In addition to the definitions of abused child and neglected child, that define the abuse as being triggered only by the parent of the child or “person legally responsible for his care,” the Act defines “person legally responsible” as including the child’s guardian, “custodian,” which “may” include “any

²⁹ N.Y. Soc. Serv. Law § 413 (McKinney).

³⁰ Written reports must contain “the names and addresses of the child and his or her parents or other person responsible for his or her care, if known, and, as the case may be, the name and address of the program in which the child is receiving care; the child’s age, sex and race; the nature and extent of the child’s injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child or, as the case may be, his or her siblings; the name of the person or persons alleged to be responsible for causing the injury, abuse or maltreatment, if known; family composition, where appropriate; the source of the report; the person making the report and where he or she can be reached; the actions taken by the reporting source, including the taking of photographs and x-rays, removal or keeping of the child or notifying the medical examiner or coroner; and any other information which the commissioner of the office of children and family services may, by regulation, require, or the person making the report believes might be helpful, in the furtherance of the purposes of this title.” Soc. Serv. Law § 415.

³¹ *Id.* at §§ 413, 415, 420.

person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child guardian, any other person responsible for the child's care at the relevant time," or "other person legally responsible for the child's care at the relevant time."³²

The Family Court Act definitions suggest that a duty to report abuse is tied to the identity of the alleged abuser. A few appellate courts have tried to interpret the law to mean that a school official's duty to report abuse applies regardless of the identity of the abuser. In one, a parent sued their daughter's school district under the social services law after a teacher failed to report sexual abuse by the child's uncle.³³ The school claimed that the teacher had not breached her statutory duty to report the incident because the child's uncle was not "person legally responsible" within the meaning of the Family Court Act.³⁴ The court reasoned that the law required mandatory reporters to make a report within 48 hours, and that the report should include "the name of the person or persons alleged to be responsible for causing the injury, abuse or maltreatment, *if known*."³⁵ Therefore, the court concluded, the mandated report was required to report even where the identity of the abuser is unknown and the investigating agency was in charge of determining whether the report was founded.³⁶ The court also noted that to hold that the duty of an official to report is "dependent upon whether the charges are founded or whether the child abuse petition is ultimately sustained would contravene the statutory purpose of encouraging prompt reporting."³⁷

However, the Court of Appeals has expressed an unwillingness to expand the law to trigger mandatory reporting when the abuser is alleged to be someone who is not a "person legally responsible" for the child. In a 2004 case, the court reversed an appellate court's revival of a claim filed against a school district who failed to report abuse by a child's 14 year-old brother.³⁸ The court held the claim against the school was meritless because the mandatory reporting requirements did not include a duty to report abuse by the brother.³⁹ The court noted that because the abuse provisions of the Family Court Act were "designed to provide a due process of law for determining when the state, through its family court, may intervene against the wishes of a parent on behalf of a child" it was only designed to contemplate "relationships between children and their parents (or guardians or custodians)."⁴⁰

Further, while courts have acknowledged a school's duty to exercise such care of a student as a parent would since "a school, in assuming physical custody and control over its students, effectively takes the place of parents and guardian,"⁴¹ this concept has not yet been addressed in connection with mandatory reporting laws.

³² N.Y. Fam. Ct. Act § 1012 (McKinney).

³³ *Kimberly S.M. by Mariann D.M. v. Bradford Cent. Sch.*, 226 A.D.2d 85, 87 (4th Dep't 1996).

³⁴ *Id.*

³⁵ *Id.* at 89-90 (quoting N.Y. Soc. Serv. Law § 415 (emphasis in original)).

³⁶ *Id.* at 90.

³⁷ *Id.*

³⁸ *Catherine G. v. Cty. of Essex*, 3 N.Y.3d 175, 179-81 (2004).

³⁹ *Id.*

⁴⁰ *Id.*, quoting N.Y. Fam. Ct. Act § 1011 (McKinney).

⁴¹ *Mirand v. City of N.Y.*, 84 N.Y.2d 44, 49 (1994).

B. Education Law Article 23-B

The state education law, amended in 2000 (effective July 1, 2001), provides “protection of pupils in educational settings from abuse and maltreatment.”⁴² The state also enacted provisions requiring fingerprinting of prospective employees of school districts, charter schools, and boards of cooperative educational services, and teachers and administrators applying for licenses and certifications in the same bill.⁴³

The law, Article 23-B, has been virtually unchanged since its enactment in 2001. It requires public school teachers, school nurses, school guidance counselors, school psychologists, school social workers, school administrators, school board members, or “other school personnel required to hold a teaching or administrative license or certificate”⁴⁴ to report child abuse⁴⁵ by an employee or volunteer in an educational setting.⁴⁶ The law defines “educational setting” as “the building and grounds of a public school district, the vehicles provided by a school district for the transportation of students to and from school buildings, field trips, co-curricular and extra-curricular activities both on and off school district grounds, all co-curricular and extra-curricular activity sites, and any other location where direct contact between an employee or volunteer and a child has allegedly occurred.”⁴⁷

Mandated reporters are required to report child abuse, which is defined as: intentional or recklessly inflicted physical injury, serious physical injury or death; intentional or reckless conduct that creates a substantial risk of these injuries; child sexual abuse; and disseminating or attempting to disseminate indecent materials to minors.⁴⁸ They must make written reports of abuse detailing allegations to the principal of the public school, charter school, or board of cooperative educational services, as the case may be, or a “chief school officer.”⁴⁹ If there is reasonable suspicion to believe that child abuse occurred, then depending on who makes the report a school administrator or superintendent must notify the parents of the child of the allegations, provide the parents with a statement of their rights under the law, and serve copies of the written report to the parents, school superintendent, and appropriate law enforcement authorities.⁵⁰ A school superintendent must also alert law enforcement where the employee or

⁴² 2000 N.Y. Laws 2756.

⁴³ 2000 N.Y. Laws 2756.

⁴⁴ N.Y. Educ. Law § 1126(a).

⁴⁵ A child is a person under the age of 21 in a New York school district within a city having a population under one million.

⁴⁶ A bill is pending that would make this law apply to private schools as well. See 2017 N.Y. Assembly Bill A5371.

⁴⁷ N.Y. Educ. Law § 1125(5). This law was amended in 2012 to exclude special act school districts as defined by law because those schools would be subject to a different section of the social services law dealing with people with special needs.

⁴⁸ *Id.* at § 1125(1). The requirement to report dissemination or attempted dissemination of indecent materials to minors was added by amendment in 2012.

⁴⁹ *Id.* at §§ 1125, 1128.

⁵⁰ *Id.* at §§ 1128. Full text reads:

Upon receipt of a written report described in paragraph (a) of subdivision one of section eleven hundred twenty-six of this article alleging that a child has been abused in an educational setting, a school administrator or superintendent shall where there is a reasonable suspicion to believe that an act of child abuse has occurred:

1. Where the subject child has made the allegation: (a) promptly notify the parent of such child that an allegation of child abuse in an educational setting has been made regarding such child and promptly

volunteer alleged to have committed the abuse holds certifications and licenses.⁵¹ A school administrator or superintendent's willful failure to prepare a written report or submit it to law enforcement is a Class A misdemeanor punishable by up to one year in jail or three years of probation, and a failure to submit the report to law enforcement also carries a maximum penalty of up to five thousand dollars.⁵²

II. Criminal Statutes

Sex crimes under New York penal law break down into a few general categories. Broadly speaking, and as relevant to minors, the law criminalizes:

- a) Sexual Misconduct, a misdemeanor, which includes engaging in sexual intercourse or oral or anal sexual conduct with a person without that person's consent;⁵³
- b) Rape, a felony, which includes a person of twenty-one years old or more engaging in sexual intercourse with a person less than seventeen; a person of eighteen years old or

provide the parent with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (c) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

2. Where a parent of the child has made the allegation: (a) promptly provide the parent of such child with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (c) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

3. Where a person other than the subject child or the parent of a subject child has made the allegation: (a) promptly notify the parent of the subject child that an allegation of child abuse in an educational setting has been made regarding his or her child and promptly provide the parent with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) ascertain from the person making such report the source and basis for such allegation; (c) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (d) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

4. Any school administrator or superintendent who reasonably and in good faith makes a report of allegations of child abuse in an educational setting or reasonably and in good faith transmits such a report to a person or agency as required by this article and in a manner described in section eleven hundred twenty-six of this article and this section shall have immunity from civil liability which might otherwise result by reason of such actions.

⁵¹ *Id.* at § 1128-a.

⁵² *Id.* at § 1129.

⁵³ N.Y. Penal Law § 130.20 (McKinney). The law defines "oral sexual conduct" as "conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina," and "anal sexual conduct" as "conduct between persons consisting of contact between the penis and anus." § 130.00. "Sexual contact" includes "any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed." *Id.* "Sexual conduct" includes "sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact." *Id.*

more engaging in sexual intercourse with another person less than fifteen years old; and other sexual intercourse with another person without their consent;⁵⁴

- c) Criminal Sexual Acts (formerly known as sodomy), a felony, which includes a person of twenty-one years old or more who engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; a person eighteen years old or more who engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; and other anal or oral sexual conduct with a person who is unable to consent;⁵⁵
- d) Forcible Touching, a misdemeanor, which includes when a person who intentionally, and for no legitimate purpose “forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person, or for the purpose of gratifying the actor's sexual desire;”⁵⁶
- e) Sexual Abuse, a misdemeanor with the exception of first degree sexual abuse and aggravated sexual abuse, which includes “sexual contact without the latter's consent;” and insertion of a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent, respectively, along with in some cases forcible compulsion and injury;⁵⁷
- f) Course of Sexual Conduct Against A Child, which includes when a person engages in two or more acts sexual conduct against a child less than eleven or thirteen years old over a period of not less than three months;⁵⁸ and
- g) Predatory Sexual Assault, the only Class A felony on the list, which includes a person who commits first degree rape, first degree criminal sexual act, first degree aggravated sexual abuse, or first degree course of sexual conduct against a child, and when in “the course of the commission of the crime or the immediate flight therefrom,” he or she:”(a) Causes serious physical injury to the victim of such crime; or (b) Uses or threatens the immediate use of a dangerous instrument; or [h]e or she has engaged in conduct constituting the enumerated crimes against one or more additional persons;” or has a prior felony sex crimes conviction.⁵⁹ Predatory sexual assault against a child includes when a person of eighteen years old or more commits first degree rape, first degree criminal sexual act, first degree aggravated sexual abuse, or first degree course of sexual conduct against a child, and the victim is less than thirteen years old.⁶⁰

⁵⁴ Penal Law §§ 130.25-130.35. These laws also have varying degrees depending on the age of the actor and the victim; and the severity of the conduct.

⁵⁵ *Id.* at §§ 130.40-130.50. These laws also have varying degrees depending on the age of the actor and the victim, and the severity of the conduct.

⁵⁶ *Id.* at § 130.52.

⁵⁷ *Id.* at §§ 130.55-130.70. These laws also have varying degrees depending on the age of the actor and the victim, and the severity of the conduct.

⁵⁸ *Id.* at §§ 130.75-130.80.

⁵⁹ *Id.* at § 130.95.

⁶⁰ *Id.* at § 130.96.

A. Age of Consent

In all cases, the law specifies that a person is incapable of consent when he or she is less than seventeen years old,⁶¹ and this has been the age of consent since 1965.⁶² Prior to 1965, the age of consent defined by the rape law was eighteen.⁶³

B. Statute of Limitations

Under current New York law, the statute of limitations is five years for felonies and two years for misdemeanors, except that there is no statute of limitations when the alleged victim is under eleven years old.⁶⁴ For all sex crimes committed against a person less than eighteen years of age, the statute of limitations does not begin to run until the earlier of the time the offense is reported to law enforcement or the time the alleged victim reaches age eighteen.⁶⁵

Prior to 2006, the New York State statute of limitations for prosecutions was five years for rape, sodomy, aggravated sexual abuse, first- and second-degree sexual conduct against a child, and facilitating a sex offense with a controlled substance.⁶⁶ For first- and second-degree sexual conduct against a child, a prosecution could occur within five years of the most recent act of sexual conduct. For crimes of sexual misconduct, forcible touching, and second- and third-degree sexual abuse, the statute of limitations was two years.⁶⁷ Where the victim was under the age of 18, the statute of limitations did not start until either the child turned 18 or where the offense was reported to law enforcement or child protective services, whichever came first.

⁶¹ *Id.* at § 130.05.

⁶² *Id.*

⁶³ Penal Law § 2010.

⁶⁴ N.Y. Crim. Proc. Law § 30.10.

⁶⁵ N.Y. Crim. Proc. Law § 30.10(f); 1996 N.Y. Laws ch. 122.

⁶⁶ N.Y. Crim. Proc. Law § 30.10; 1996 N.Y. Laws ch. 122.

⁶⁷ *Id.*

Appendix V: May 2, 1978 Dr. O'Connor Address to the Faculty



EMMA WILLARD SCHOOL
TROY, NEW YORK 12181 315 271-1110

OFFICE OF THE PRINCIPAL

ADDRESS TO THE FACULTY May 2, 1978

I am feeling very old today - and very tired. The events of this term have taken the heart out of me, and left me angry and discouraged. I have learned that I've been living in a dream world here at Emma Willard, and many of you will learn the same thing about yourselves this afternoon. I've learned that the awesome responsibility I feel for the students entrusted to our care is not shared to any degree at all by some of my faculty. I've learned that the desire to help young people and to give of oneself for them is replaced in some of our colleagues by the desire to use our students for personal pleasure and satisfaction and that some ignore the most basic responsibilities that are ours as educators and surrogate parents. My new-found knowledge has sickened me.

I am going to share with you the information that you need to know if you are to understand the reality of what we are doing to our young people here at Emma Willard. But first, I want it to be very clear to everyone in this room that what I am saying is confidential and not to be shared in any way with anyone not present here now. If any of our colleagues have missed this meeting and want to know what was said, please refer them to me and to me alone. I am not giving you information for discussion. I am giving you information for thought that can and must lead to significant and immediate changes here at Emma Willard.

I have had some cause for concern during all my years as Principal here that the adult-student relationships at Emma Willard are not what they should be. I've spoken frequently of our need to uphold standards, been distressed by an occasional adult ridiculing the rules of the School or the authority of another adult, been displeased by the casualness of attire of some of my colleagues, and had a vague uneasy feeling that we were not as responsible and professional as we make ourselves out to be.

Since the beginning of this term, just over a month ago, I have had occasion to speak with parents, students, faculty and Trustees about a very awkward topic: sexual intimacy between teachers and students. Not one unfortunate event, but several; not one teacher, but several; not one student, but many. Here is what I have learned. Even before my coming to this campus it was common knowledge among some students and some faculty that certain adults on campus had intimate relations with certain students. My predecessor, with whom I have recently spoken, heard

PAGE 2 - Address to the Faculty

rumors to this effect, ^{and} dealt with at least one teacher on the issue. He wanted so much to believe it was only rumor, having no way to prove the contrary, that he did just that. I have heard similar rumors and have also dismissed them as fantasy or less. But now I can no longer do so, I know for a fact that it is going on. I cannot and will not tell you who is involved, how many faculty members or to what extent. That is an issue for me to handle with the Trustees and the School's attorney. I can assure you also that I have read "The Children's Hour" and am not perpetuating one here at Emma Willard. I am more fearful than you can imagine of making a mistake in such a serious and delicate area. Let me also caution you against assuming that any or all of the people who have or will leave the School are involved in these activities. While it is logical to assume that some may be, the majority will certainly not be and to cast doubts on their honor and professional standards would be unfair and seriously harmful.

With those cautions, let us look together at the situation and turn it around as of today, 3:45 P. M., Tuesday May 2nd. Several of the students who admit to being sexually involved with faculty have told me that they and their friends feel that sex makes this place go round. They were amazed that I had not heard that said before. It seems to be a common and frequent topic of conversation at least among the boarders. Needless to say, because they know that there have been some student-teacher lovers, they feel that it is common. They misread many of our actions and weave them into rumors and fantasies which become reality to them.

I talked with the parents of one student and was told that their daughter was quite confused because she felt our School gave out many signals that we condone and even encourage sexual promiscuity. She pointed out that the dating behavior of our adults was quite indiscrete, and that students were often aware of adult affairs on campus. She also pointed out that occasionally students are invited to faculty parties where liquor flows easily and is followed by much hugging and kissing among the adults. She added that ^{our} outside speakers in Sex Education seem to leave the impression that everyone can and should do everything with anyone. Then, to add to her daughter's confusion, the one adult she most respected and trusted and wanted to talk with was rumored to be involved in a lesbian relationship with another faculty member and simultaneously in an extra-marital affair with another. She believed the rumors and came to the conclusion that she was the one who was off base. She must be wrong, just young and prudish - and so she went ahead with her own introduction to sexual activity. That adult who was rumored to be involved in two affairs simultaneously was myself. I tell you that so that you can see the extent of the damage that is being done to our students and to us, and realize how hard it is for them to develop their standards here at Emma Willard.

There have been faculty-student affairs this year - and other years. Teenage girls fantasize about sex anyway, and build romantic tales. Given the fact that some of their rumors and tales are true, we should not be surprised to find that they themselves believe they are all true, and are therefore confused about our standards and values - which, whether we like it or not, become one of the models for their own.

Now you know the problem - let us set about solving it. Let no one of us ignore it, try to say it isn't true, or play silly political games with it. It is true; it has been established as true beyond the shadow of a doubt, and it must be dealt with.

First, let us acknowledge right now that whether we want it or not, whatever our educational philosophy, however much we deny it, we are role models for our students. If you do not wish to be a role model, get out of education. Youth by its very nature models itself on its elders, particularly those in authority such as parents and teachers. Once we are professional educators, our only choice is to decide what kind of a model we wish to be, and to work to see that we are perceived that way. Given the situation here we must be very careful that the warmth we wish to portray is not seen as sexual advance. We must be careful how and how often we hug and kiss students. We must be sure that love, understanding, and responsibility are demonstrated and spoken of by us as an integral part of sexual intimacy. Our private lives and sexuality must be kept discrete and private. We must examine ourselves, know our weaknesses and not play them out or seek solutions for them in our students. We must always remember that our students are children, not adult companions.

I was distressed at the current faculty workshop to hear so many say that they were not role models for the students, and then add that they themselves did not know what values they wanted to pass on to youth so would rather leave them free. Everyone of us is a role model. Period. If you do not know what values are worth perpetuating in the next generation, please get a job outside of education. You are missing an essential ingredient that is necessary to every teacher. Values such as respect for others, responsibility, truthfulness, kindness, selflessness, helpfulness and self confidence are worth passing on to the next generation. We tell our prospective students and parents that we foster them. If anyone here does not believe in these values, and many people in the world don't, then move on. Let Emma Willard be what it stands for and find another calling where you can be what you stand for. Do not be afraid that you limit the freedom of youth by teaching them values. Human freedom is not like that. If you will not teach youth values, then you are teaching them that there are no values. And that does not leave them free either. We are role models. We have values to transmit. Let us take our positions seriously, examine the validity of our modeling, and be the finest professional educators in the field.

Dr. O'Connor then answered several questions from the trustees which are summarized below --

The faculty members involved fall into no category as to age, length of service, or marital status. In one instance the student provoked the incident. Perhaps one third to one half of the student body feel that "sex makes this school go round." Courses are taught in human relations covering faculty/student, parent/child relationships and there have been assemblies dealing specifically with values. The faculty had divided response to her speech - some reacted with dismay and shock.

Jack Easterling further explained that some faculty members were shocked, some felt the Principal was overreacting, and some were resentful because the moral problem was yoked together with a number of problems of lesser degree.

The Principal said it is important for the trustees to understand that most students are not involved and most faculty are hard working, mature, professional human beings and cannot be characterized by what has been described, but these things cannot be tolerated any longer. There must be a hard and fast turn around. Everyone here cannot make decisions -- the decisions must be made by the person responsible. The Principal will have to be more authoritative and the problems should be solved now so that the successor to the Principal will have guidelines set down which will be accepted and so that that person will not have to correct an unpleasant situation at the offset. It is also important in hiring an academic dean to have established standards to follow when dealing with faculty.

Changes should be made now rather than in September. If faculty members are not willing to cooperate they should not be here.

There is going to be a great amount of criticism and the Principal said she will need to have the trustees solidly behind her.

The trustees discussed this problem at length. Some felt the moral issue should not be put in context with lesser issues and failed to see a connection between the whole continuum of behaviour. It was recognized that some faculty might feel threatened by loss of job over committing a mere indiscretion. Too, if people are grouped together they could feel it is a purge and an attempt should be made to handle it without alienating those not involved. One dictum will not reverse the trends of history. The Principal is in a potentially loaded position where she could be accused of being vindictive. It was questioned whether an endorsement of support for the Principal should be given if there was a possibility that the Board might not be in accord with the means used.

The trustees felt that it is imperative to convey to the faculty that the Board fully supports and encourages the Principal in her leadership of the School. They rely on the Principal's concern for the strength and well being of the School to handle this problem with discretion. The Principal is in the best position to know what methods to use. When trustees talk with faculty on school problems, it is thought the trustees are sympathetic to the faculty member's point-of-view and that the trustees are backing them. This defeats and undermines what the Principal attempts to do. Because there has been such incredible give-and-take among faculty and Board, administration and Board, students and Board, the trustees have sometimes been privy to concerns that make it difficult for trustees to function as trustees. The Board is the policy maker and upholder of principles.

John Esty presented the following proposal, which was moved by Mr. Higgins, seconded by Mr. Bутtenheim, and unanimously passed by the Board:

The Board of Trustees has read the Principal's statement to the faculty of May 2, 1978 and wishes to convey unanimous and full endorsement of principles it contains and unanimous and full support for her determination to deal with the issues it raises.

The trustees agreed that Executive Sessions are very beneficial and that these sessions should be a part of each meeting. It gives the trustees the opportunity to talk in confidence and to make decisions without administration and students being present.

Mrs. Ruckert stated she wished to go on record to say that she was appalled to learn of the Principal's resignation only a week before students and she was shocked to know it had been known by some for months.

In closing Mrs. Diemel said it is good to be a member of the Board of a school that is great and that there is satisfaction in being involved with an institution where one is needed.

Respectfully submitted,

Elizabeth G. Shepard

Elizabeth G. Shepard
Assistant to the Secretary

Appendix VI: March 11, 1998 Dr. Robertson Memo to File re: Barton

TO: The File
FROM: Robin Robertson
DATE: March 11, 1998

In October Judy Bridges and Jack Easterling met with Scott Barton to warn him that his behavior vis-a-vis [REDACTED] was inappropriate. They have the date and details of that conversation.

On December 10, Mr. Barton submitted a letter of resignation (attached) referencing that conversation in his reasons for resigning. We talked later that week. During that conversation he expressed a slightly different attitude toward Emma Willard when asked if he wanted his letter posted. He and I agreed he would draft another letter. I received that letter at the end of January even though it was dated December 10 as the previous one had been (attached).

Mid-afternoon on Sunday, March 8, I received a telephone call from [REDACTED], father of [REDACTED], Class of 1998 with a request to talk with me the next day about a matter of utmost importance having to do with a situation between a faculty member and a student. Because I was leaving the country on Tuesday morning, we agreed to talk at 7:30 Sunday evening at my house. Jack Easterling and [REDACTED] were present as well.

[REDACTED] said that the relationship between [REDACTED] and Mr. Barton had reached a point where he and [REDACTED] no longer felt able to deal with it. They had had Mr. Barton over for dinner in November as they had done before with faculty members who were important to [REDACTED]. At that time, they sensed there might be more to the situation. On December 20 after a family member had read [REDACTED] e-mail from Mr. Barton on an open screen, [REDACTED] met with Scott in Saratoga. He asked Mr. Barton for four things (only three of which were listed): [REDACTED] should be able to take full advantage of her Emma Willard education and finish, they should stop any form of communication, and Mr. Barton should urge [REDACTED] to restore her relationship with her family (M/M felt [REDACTED] had become withdrawn and uncommunicative). According to [REDACTED], Mr. Barton agreed.

In mid-February, [REDACTED] asked to meet with Mr. Barton, telling him that she was disappointed in his not having lived up to the agreement. According to [REDACTED], she suspected that [REDACTED] and Mr. Barton had spent some portion of the last weekend in January together, but it was unclear as to whether or not she shared that with him.

On February 28, [REDACTED] called Mr. Barton and left a message on his answering machine saying that they could not find [REDACTED]; her friends had called saying she had left the prom and they were worried. The [REDACTED] later found out that [REDACTED] had called Mr. Barton, he had picked her up, and they had gone out for tea.

Between then and when they talked to me, [REDACTED] e-mail account had been left on the screen again and a number of letters had been left out on her dresser from Mr. Barton. The content of both caused them concern, particularly a reference to Mr. Barton's buying land. [REDACTED] has a trust fund for education that she has access to and could have used to finance the purchase. Their thought that he might be using her for her money and concern about her not graduating from high school caused them to call me.

They brought some of the e-mail (attached) and a copy of one of the letters. I read the first part of the letter and told them I had to dismiss Mr. Barton. That kind of correspondence, whatever else might or might not be the case, was inappropriate.

At 9:15 Jack and I went over to Mr. Barton's apartment and talked with him. He said he was in love. That kind of love made it worth breaking the rules. I told him I could understand that kind of love, but that one could not continue to live and work in a place and violate the rules. I told him he should have left as soon as he recognized what was going on; his behavior had been dishonorable. Jack attempted to make a similar point with a little success.

I did not ask him if he had had a sexual relationship with [REDACTED]. We talked at some length about her parents and he confirmed the details of the meetings and elaborated on some of them ([REDACTED] brought a friend because she did not want to "not despise him", father had said he was going to meet with a boy and afterwards said he had met a man, etc.) outlined above. The conversation ended with my telling him he needed to be gone by the end of spring break and that we would continue to pay him through the end of June.

To my knowledge, he left early the next morning, returning to pack up his belongings at some point during the next two weeks. I talked with the [REDACTED] on Monday and again when I returned from Europe to alert them to the press interest. As they requested, Judy met with [REDACTED] prior to the beginning of classes and I touched base with her as well once classes began. They reported that she was as good as could be expected, was seeing a therapist and that they might be in touch with Mr. Barton to have [REDACTED] and him meet with the therapist.

EMMA WILLARD SCHOOL

March 9, 1998

Dear Members of the Emma Willard Community,

The past few days have been very difficult ones in my office. At a time when spirits were high in anticipation of spring vacation and school trips abroad were in the offing, members of the senior staff and I spent many hours in painful deliberations with and about two faculty members.

It is my unpleasant task to inform you that the employment agreements between Emma Willard School and Scott Sargent and Scott Barton, members of the History and Science Divisions respectively, have come to an end, effective immediately. In separate, isolated and unrelated incidents, each of them overstepped the carefully defined and articulated boundaries for faculty-student interaction. As soon as we received substantive information about these situations, I took the necessary action.

This is a particularly difficult action for any Head of School. Ideally, I would be able to communicate with you in person. Because of Spring Break that is not possible. Since it is not possible to bring the community together at this time, I have to communicate with you by letter.

By the time the students return, Jack Easterling and Judy Bridges will have arranged for coverage of classes, advisor duties and extra-curricular activities. When the students return, the School Counselor, Dean of Students, Health Center staff, residence staff and advisors will be available to help with concerns that individual students may have about these two situations.

Emma Willard is a strong school with a long tradition of excellence and integrity on the part of the faculty. As a boarding school we have a special responsibility for the welfare of young women who are our students. I thank you in advance for the support that you offer from afar as we here work to bring the remainder of the year to a happy and successful conclusion.

Yours sincerely,



Robin Robertson
Head of School

RR:pj

Appendix VIII: March 11, 1998 Dr. Robertson Memo to File re: Sargent

TO: The File
FROM: Robin Robertson
DATE: March 11, 1998

On Monday, March 2, I spoke with Judy Bridges from Florida. According to [REDACTED], [REDACTED] was seen leaving Scott Sargent's apartment at 10:30 on a Saturday evening. There had been a number of rumors circulating through the student body about a relationship between them. I asked her to investigate.

She has the details. I returned to campus on Wednesday afternoon. The details were still being resolved. On Friday, March 6, Judy Bridges announced in Morning Reports that [REDACTED] room had been vandalized on Thursday evening and asked any students with knowledge of the incident to talk with her. [REDACTED] had left early for spring break earlier that day. At approximately 9:00 a.m. Judy appeared in my office with the information that someone had come forward and told her that [REDACTED] was responsible for the vandalism and that it had had to do with [REDACTED] having called a former student who was romantically involved with Mr. Sargent that [REDACTED] had had an affair with Mr. Sargent.

Judy went to find and to talk with her. I called her father to alert him. By the time I reached him, I was able to tell him that [REDACTED] wanted to leave Emma Willard and was insisting that because she was eighteen she could do so.

[REDACTED] came to my office. I talked with her in Trudy Hanmer's presence. She admitted to a single incident of sexual intercourse with Scott Sargent in December, 1997, in his apartment. She said she had not been in his apartment in February. She had been looking in the sliding glass doors to see if he was there. He was not. When she turned to leave, she saw Mr. Boluch. She repeatedly said she was withdrawing and refused to talk with her parents. While I was out of the room, Trudy told her that, if she was withdrawing, she needed to say so in writing. The result is attached. I talked with her father again, informing him that a faculty member was involved in the situation. He said he was not surprised.

When she was told by me that she could not go on the trip to Ireland, [REDACTED] left my office and was found by Judy Bridges in Scott Sargent's office talking with him. Eventually she talked to her father in order to get him to tell me to give her the spending money and tickets for the trip to Ireland so that she could go to New Orleans. Her father told me to give her the \$200, but to send the tickets to him. Judy Bridges then made arrangements with the father for her departure.

Scott Sargent arrived in my office soon after his conversation with [REDACTED] during which he said she had told him that she had told us about the incident. He confirmed what she

had said. Jack Easterling joined us soon afterwards. Scott realized that he needed to leave Emma and was full of remorse while taking full responsibility for what had happened. We agreed that his employment agreement was terminated immediately and that he would vacate his housing before the end of spring break. I gave him the option of resigning, which he took. He said he intended to find another job, would not return to teaching for a while if ever, and deeply regretted having broken the trust that should exist between a student and a faculty member.

I talked with Scott Sargent again on Monday, thanking him for his note on Friday (attached). We discussed his plans and the schedule for his departure. I told him that the school would continue to pay his salary through the end of June. I also told him that another similar situation had come to light and shared with him the letter that I had drafted to go to the parents which would essentially nullify his resignation. He said he understood the need for the letter and did not have any problem with the wording. Steve Wiley asked that I have his agreement to the letter witnessed. I did so with Jack Easterling present some time later.

Scott left me his address in New Hampshire when he moved out.