



William K. Rawson '71; P'08
Principal

February 13, 2019

Dear members of PATH:

This letter responds more fully to the petition that you released on Thursday, September 20. We have incorporated portions of our prior response so that all the key points will be in one letter. We begin with some preliminary comments about our commitments, and then address the main points of the petition and respond to each of your recommendations. We conclude with some forward-looking thoughts.

Fundamentally, this letter reflects our deep regret for the harm that has been caused to survivors by past incidents of sexual misconduct and past mishandling of incidents of misconduct, a belief that much good has been accomplished through our work with survivors, and a desire to continue that work and continue supporting those who have been harmed. Importantly, it also reflects a hope that when we disagree on certain matters, as inevitably will be the case from time to time, that we can do so without survivors feeling harmed, and that we will be able to continue to work together to support survivors and grow as a school and community.

Our Commitments

We start by reaffirming our commitments to a thorough discovery of our past, support for those who have been harmed, and the undertaking of appropriate corrective action and communication. We stand by those commitments, notwithstanding the criticisms expressed in the PATH petition. We wish to express again our deepest apology to those who have been harmed. We accept full responsibility for the harm that has been suffered and for the failures of those whose responsibility it was to prevent and address such harm.

We appreciate PATH members' recognition of the sincerity of our efforts to work with survivors, hear their stories, and address past harm. We believe we share common commitments in that regard. We believe many of our disagreements with the PATH recommendations, which we explain in this letter, are due largely to misunderstandings of fact, which perhaps we could have avoided through clearer communication. But even where we have a common understanding of the facts and disagree on what should be done, it bears repeating that it is our sincere hope that those disagreements will not stand in the way of our continuing to work together to support survivors and improve our school.

Toward the latter goal, we remain firmly committed to doing all we can to provide our current students and adults on campus a teaching and learning environment that is free of sexual misconduct and harassment in any form. We have sought help from outside organizations, and have been grateful to survivors who have helped us grow in awareness and understanding.

We have changed almost everything we do in the areas of training and prevention, including adopting a new affirmative consent policy. We have changed how we handle new reports of sexual misconduct. While such situations are inherently painful for students involved, we approach them with a keen awareness of the additional secondary harm that can be caused when such reports are not handled properly. Dr. Christina Palmer has played a leading role, but I and other senior administrators are committed to this work, and I consider this to be a campus-wide obligation and commitment.

I repeat what I said in September: at no point during my tenure as principal will the school take action designed to protect the reputation of the school at the expense of victims, survivors or anyone else, including the accused. We will engage in principled decision-making, consistent with the values of our school, and endeavor always to act with compassion, understanding, and fundamental fairness.

I cannot stress enough that our work in this area fits into a larger whole. Our commitment to diversity, equity and inclusion reflects our determination to do all we can to ensure that every student and every adult at Exeter has an equal sense of belonging and equal opportunity to thrive. Sexual misconduct and sexual harassment, however either occurs, fundamentally is a denial of the dignity and worth of one person by another, and constitutes a taking away, a theft, of that equal sense of belonging and equal opportunity to thrive. It is important to recognize this larger context for our work with survivors and our work on campus to provide a safe teaching and learning environment.

Exeter is a very different school than it was just a few years ago. This is true for students and adults. We are committed to continuing to learn and improve. Our work with survivors has been and remains an important part of that work.

Adult-to-Student Harm

The PATH petition reflects a belief that Holland & Knight did not conduct a truly independent investigation, and on that basis recommends that the investigation be repeated using a new investigator chosen by the Academy and PATH. We hope the explanation below will demonstrate that Holland & Knight in fact did conduct an independent investigation.

The PATH petition reflects a mistaken perception that the Academy and its outside counsel (Nixon Peabody, or NP) acted as “gatekeepers” for Holland & Knight’s access to information and in this way compromised the independence of the investigation. The Academy did need to make an initial determination whether there was a sufficient basis for conducting an investigation (e.g., something more than a vague rumor), but once such a determination was

made, Holland & Knight was given unfiltered access to everything. Holland & Knight was given every document, access to every witness, and every piece of information that H&K requested. Nothing was withheld. The Academy did not withhold any information from Holland & Knight (or from law enforcement) based on attorney-client privilege.

To be clear, Holland & Knight was given access to all relevant information without restriction or qualification, as urged by PATH members. We acknowledge that this could have been stated more clearly in the Holland & Knight report and in our own correspondence.

Accordingly, we do not believe it is necessary or would be appropriate to repeat any portion of the Holland & Knight investigation.

The PATH petition asserts that redacted New Hampshire State Police Reports contain “several credible allegations” of sexual abuse of Exeter students by Exeter employees that are missing from both the H&K and NP reports. We do not know to what allegations the PATH petition refers. We believe an investigation was conducted in every case where there was sufficient information to warrant and support an investigation. If PATH can identify a specific case or cases where it believes an investigation is warranted and has not been conducted, we will consider that information. (We say more about police reports below.)

Peer-to-Peer Harm

The PATH petition makes the same recommendation for a new investigation into peer-to-peer sexual misconduct. We believe this recommendation also is based on misunderstandings explained below. While we do not see a reason to repeat investigations that have already been conducted, we are fully prepared to investigate any new allegations that come to our attention.

The PATH petition states that the Academy never announced the existence of an investigation into sexual abuse of students by other students, and did not invite the participation of alumni and students. While we acknowledge we could have been more explicit, I would note that on many occasions, the Academy did invite, encourage and really urge all members of our community (including alumni and students) to report misconduct of any kind, which would include student-to-student misconduct.

We acknowledge that neither NP nor the Academy has conducted a comprehensive investigation of all past student-to-student misconduct. Regrettably, we understand that many cases likely have still gone unreported, and so we understand that the number of cases we know about does not represent the full extent of student-to-student harm. We will continue to encourage those harmed to come forward if and when they are able to do so. We will do all we can to support survivors who do come forward in the future.

The PATH petition raises a specific concern that NP failed to communicate its role in representing the Academy when contacting survivors, and asserts that as a consequence NP's communications to these victims were improper and unethical. Our understanding is that in each case when contacting a survivor NP followed a standard protocol that required it to identify itself as legal counsel for the Academy. Typically this was done explicitly in writing. We accept that this point could have been made clearer in the NP report. We invite survivors whose experiences do not match our understanding to be in contact with us.

Secondary Harm

We recognize that the mishandling of reports of sexual misconduct can cause secondary harm with severe and lasting impact. We acknowledge that further harm can be inflicted if harm from past mishandling is not acknowledged. We acknowledge further that the reports by H&K and NP, while describing events, did not purport to make judgments or hold persons individually accountable for past mishandling of reports of sexual misconduct. We should have made clear in our prior correspondence that neither H&K nor NP were asked to undertake that responsibility, and that we at Exeter are assuming responsibility to address past failures in the handling of reports of sexual misconduct. We accept responsibility for not having communicated more clearly on this point.

In addressing the past failures in this area, we believe we must consider whether the failure was knowing and deliberate, whether the individual was acting in good faith and trying to act responsibly based on what was known and understood at the time, whether the individual acted following consultation with others or pursuant to instruction, and whether the real failure arguably occurred at the institutional level based on lack of protocols, guidance, training or other factors. In other words, we must engage in principled decision-making here as well. But we realize that reasonable persons might disagree on these matters.

We are in the process now of reviewing all cases where we believe the mishandling of cases of sexual misconduct did or might have occurred. This process contemplates the possibility of public repercussions, but it also includes the possibility of non-public repercussions. We will not automatically remove a person from a position of employment based on any finding of a mishandling of a report of sexual misconduct, as the PATH petition urges. We will however take actions that we believe are appropriate, whether of a training or disciplinary nature, document all actions that are taken in employee files consistent with sound employment practices, and act responsibly toward any prospective future employers.

The process we describe is not as transparent as PATH recommends and urges. However, we are following what we believe are sound employment practices, consistent with moral and ethical constraints. We do not by our actions intend to condone any past mishandling of reports of sexual misconduct. We will do all we reasonably can to prevent any future mishandling of reports of sexual misconduct.

Institutional Errors

PATH expresses first a concern about past “dual record keeping” and asserts that the overview in our August correspondence did not state whether this is still an Academy practice, or whether files regarding sexual misconduct have been integrated into the regular personnel files. We felt we addressed this adequately in the supplemental information that was provided, but perhaps we could have been clearer.

In our Supplemental Information, we stated that: “Employee files are centrally stored in the Human Resources department. Department heads and other managers have received and will continue to receive training on proper documentation and record-keeping, and in particular, proper documentation of personnel concerns.” We can add here that all critical personnel files have been consolidated and organized in such a manner that all administrators and relevant personnel can access the information they need about any employee.

Importantly, our employment counsel has advised us that investigative reports do not belong in a personnel file. However, letters sent to an employee at the beginning and end of an investigation are properly maintained in that employee’s personnel file and serve as a notice to an administrator to look elsewhere for the investigative file as necessary.

PATH expresses a concern about a pre-2017 Memorandum of Understanding (MOU) between the Academy and the Exeter Police Department (EPD) that PATH asserts established a reporting protocol contrary to state law. The PATH petition cites statements from the New Hampshire State Police reports that, unfortunately, contain inaccuracies. The former MOU did not identify the principal as the only person who could report to authorities, and deans and other adults at the Academy made several mandated reports under the prior MOU. We are not aware of any factual or legal basis for contending that the prior MOU with EPD was “illegal.”

We have explained previously that police reports reflect and document information that is shared by one or more witnesses with police. Witnesses may disagree with one another, their memories may be imperfect, and witnesses in some cases might simply be wrong. For these reasons, a police report might reflect viewpoints or opinions that upon further investigation are determined to be unsupported or wrong. Recognition of this reality in no way disrespects members of any police department who faithfully record what they are told, or witnesses who in good faith tell police what they believe to be true. But the reality is that the voluminous police records that PATH has reviewed unavoidably contain errors and are missing information from subsequent investigations.

PATH recommends that the Academy “includes all adult sexual misconduct reports in the alleged perpetrator’s regular personnel files and makes every effort to contact all institutions where adult perpetrators went after leaving PEA.” We understand the purpose of this recommendation, but should make clear that it would only be legal and fair to take these steps in a case where the police investigation found, or our own investigation concluded, that the adult in question had in fact committed sexual misconduct. Unproven and unfounded

allegations of sexual misconduct cannot be placed in an employee's personnel file, and indeed, such a practice would violate the employee's rights, as would contacting other employers. As noted above, letters sent to an employee at the beginning and end of an investigation are properly maintained in that employee's personnel file and serve as a notice to an administrator to look elsewhere for the investigative file.

Finally, PATH asserts that based on complicity in past mishandling and concealment of sexual abuse, "former principals and deans should no longer be honored or in attendance at student and alumni gatherings." We cannot act on such a sweeping and vague assertion. However, as stated, we are committed to addressing past failures following the principled process outlined in the prior section of this letter.

Nude Photos

We do acknowledge that for a period of time in the fifties and sixties nude photos were taken of new students. We know this happened, because many alumni remember that it happened, but we have not been able to find any records of this activity. We also do not know when the activity ended, but certainly by the fall of 1972 and perhaps earlier. To the best of our knowledge, after extensive inquiry, no such pictures, copies, or negatives exist on our campus today.

PATH Petition Appendix

The PATH Petition Appendix repeats several points that also are made in the Petition, summarizes the reports of sexual misconduct contained in the H&K and NP reports, and also summarizes information contained in the supplemental information provided by the Academy with the H&K and NP reports. The Appendix also contains several assertions based on a set of public police reports which we believe largely reflect either inaccuracies in those reports or misunderstandings. It is neither possible nor productive to respond to every point here, though we have previously discussed some of these points in meetings, and could discuss more in future meetings. We do wish to state that we believe the Academy and its legal counsel responded to all requests by the Exeter police in a timely and cooperative manner.

Next Steps

We take heart from the following statement by PATH:

"PATH is relieved and grateful that PEA has finally undertaken a compassionate, legally compliant and morally responsible approach to allegations of sexual misconduct. PATH appreciates PEA's endeavors to improve its culture and care of its students."

We believe our top priorities at this time should be: supporting those who have been harmed; undertaking appropriate corrective action and communication; doing all we can to support our current students; and doing all we can to provide students and adults on our campus a teaching and learning environment that is free of sexual misconduct and harassment in any form.

We would like to continue our work with survivors toward these goals. We hope this letter addresses many of PATH's concerns.

Sincerely,

A handwritten signature in black ink that reads "William K. Rawson". The signature is written in a cursive style with a long, sweeping underline.

William K. Rawson
Principal