

APPENDIX:
SUMMARY AND ANALYSIS OF THREE AUGUST 2018 SUMMARIES FROM PEA

On November 22, 2011, Principal Thomas Hassan wrote to the PEA community in the wake of reports of sexual abuse at Penn State and Syracuse, stating that “the faculty, administrators and staff at [PEA] hold the physical, mental, and emotional safety and security of our students, past and present, as our top priority.” Hassan further claimed that “PEA has strong safeguards in place to protect the young people in our care” and “all of our long-standing policies and procedures are in strict compliance with the New Hampshire Reporting Laws.”

We now know that these reassurances were unfortunately untrue. PEA did not place the wellbeing of its students as its top priority; rather, in many instances, the reputation and the job security of its faculty members seemed to take precedent. In addition, PEA violated New Hampshire’s mandatory reporting laws many times over the course of decades, including in the years since Hassan wrote that communication in 2011.

The three documents sent by PEA to its community of students, parents and alumni in August 2018 belie the empty reassurances of Hassan seven years earlier. They are a start on the path toward transparency, accountability and reconciliation. But they are only a start.

Below is a summary and analysis by PATH members of the three PEA documents. The information and quotes provided below can be found in the over 900 pages of [investigation files](#) released by the Rockingham County attorney’s office (“Rockingham Files”) through a Right-to-Know request.

1. **Overview of Holland & Knight Investigation:** This first document is an “overview” of an investigation done by the law firm Holland & Knight (H&K) of 28 allegations of misconduct by adult employees at PEA.

This was a narrower investigation than what PEA represented in its March 2, 2017 communication as being “an independent investigation into historical sexual abuse at Exeter” that would “investigate allegations ... of inappropriate sexual conduct by faculty or staff against students occurring at any time in our history.”

PEA claimed that the only limitations on H&K’s work would be the availability of evidence. Unfortunately, this is simply untrue. As set forth in the overview document, H&K only investigated allegations of sexual misconduct by adults that were first vetted by PEA and its outside counsel, and then passed on to H&K for investigation. Therefore, much, if not all, of the information H&K received was filtered through lawyers defending the school from liability.

H&K made several damning findings even with their limited investigation. H&K found that PEA maintained a “dual record-keeping system” from the 1970s into the 2010s that kept information concerning sexual misconduct by PEA employees out of those employees’ regular personnel files by including it only in “confidential” files maintained by the Principal or Dean of Students. (According to the interview of the Director of Campus Safety by NH State Police, the information was included in the student’s file.) This not only allowed abusive adults to remain on campus with impunity, but also allowed them to move freely on to other jobs working with vulnerable youth. H&K did not confirm, nor has PEA, whether this deceptive practice has stopped and all of the “confidential” files integrated into regular personnel files. Interestingly, the Catholic Church engaged in a similar practice so that abusive priests could be moved to new congregations where many of them abused again.

H&K also identified a “systemic concern” with the lack of a defined protocol for handling and reporting allegations of sexual misconduct that resulted in “a pattern of PEA failing to respond to, investigate, and communicate internally regarding reported misconduct in an effective and appropriate manner and, in certain circumstances, failing to report misconduct to the appropriate authorities.” Due to this absence of protocol, H&K found “that some individuals who experienced different forms of sexual misconduct at various points were not able to seek assistance or, when they sought assistance, were not treated consistently or fairly.”

Of the 28 investigations by H&K, 26 regarded alleged sexual misconduct by adults employed by PEA as faculty or staff covering incidents from the 1950s through the 2010s. The overview provides the names of only seven perpetrators who H&K concluded had engaged in sexual abuse of students ranging from fondling and kissing to penetration.

Notable in these seven investigations:

- Donald Foster: Foster assaulted at least three female students, at least one of whom reported the assault to Dean of Students Susan Herney, who in turn reported it to Principal Steven Kurtz. In addition, several additional students *and female faculty members* reported inappropriate sexualized contact and a younger female faculty member made a contemporaneous report of sexual harassment that included grabbing and kissing. Several female students reported that Foster’s misconduct directly affected their academic participation at PEA. PEA asked Foster to seek psychological counseling, but he was not fired and continued at PEA until his retirement in 2011. His emeritus status was not revoked until 2017.
- Steve Lewis: Lewis admitted to having a sexual relationship with a female student in the 1980s. Dean of Faculty Jack Heath was aware of rumors in the 1980s and discussed these with Lewis, but did not ask him whether the rumors were true. There is no record of any investigation by PEA. Several other female students reported having sexualized photos taken of them by Lewis over the course of his decades at PEA.
- George Mangan: Mangan was a faculty member who sexually assaulted two female students who had recently graduated (one of whom was still 17 years old) at a graduation party in the 1980s. These young women reported the assaults immediately to the PEA administration. One of them specifically demanded that Mangan not be in a girls’ dormitory. Several PEA principals were aware of these allegations, but Mangan remained “active in dormitory life”. There was no record of the allegations in Mangan’s personnel file, and no indication that PEA reported the incidents to law enforcement. Dean of Students Herney was apparently concerned enough that she wrote several memos regarding Mangan to Principal Kurtz, one of which stated “serious reservations about [Mangan’s] ability to work appropriately with students . . . and in the dormitory.”
- Barry Pomerantz: Pomerantz was a counselor at PEA in the 1990s who repeatedly harassed a male student and touched him in a sexualized manner. Dean of Faculty Kathleen Brownback confronted Pomerantz and he admitted that some of the allegations were true. Brownback informed the Director of Counseling Jeanne Stern, who admitted to H&K that she did nothing to follow up on the allegations. There are no records of an investigation by PEA and the alumnus in question says that he was never contacted.

- **Rick Schubart:** Schubart was a faculty member who sexually abused at least three students and one alumna, and gave an inappropriate gift of underwear to a fourth. Schubart's sexual misconduct included extensive sexual relationships with at least two female students. He also engaged in inappropriate boundary-crossing with several additional students and kissed the mother of another student on the mouth. H&K concluded it was likely that at least one faculty member knew about one of Schubart's sexual relationships, and it was widely felt by students on campus that he was "lecherous" and "creepy." PEA forced Schubart to retire after one of the students reported in 2011, but he was given emeritus status and allowed to attend PEA events. After a second alumna reported a sexual relationship in 2015, PEA revoked Schubart's emeritus status and banned him from campus. PEA did not disclose Schubart's sexual misconduct to the PEA community, however, until a Boston Globe exposé in 2016.
- **Edleff Schwaab:** Schwaab was a PEA counselor who sexually assaulted at least three students and engaged in inappropriate sexual conversations with two others, one of whom characterized his "counseling" meeting with Schwaab as "stomach churning". PEA fired Schwaab in 1976, but there is no record that PEA reached out to the students involved or offered them support, or that PEA reported Schwaab's misconduct to licensing authorities. H&K noted that PEA's lack of action "may have put more students at risk."
- **Unknown Male:** An unknown male employee at PEA in the late 1980s engaged in forced oral sex with a male student.
- **Other Investigations:** H&K investigated numerous other reports of inappropriate sexualized conduct by PEA employees, but stated that these could not be disclosed because they did not meet PEA's Principals of Disclosure. H&K did note, however, that PEA's administration was ineffectual in its investigations, communications and remedies for much of this reported misconduct.

2. **Nixon Peabody Review of Prior Investigations of Adult Sexual Misconduct:** NP provided a fairly perfunctory review of prior investigations concerning sexual misconduct by four PEA faculty members.

NP has long represented PEA as a primary outside defense counsel and so could not claim to do an independent investigation as its fiduciary loyalties lay firmly with PEA. In its capacity as defense counsel, NP reviewed sexual misconduct allegations in which the students and former students alleging sexual abuse were represented by legal counsel, the allegations had previously been investigated in some manner, and/or the matter came to involve a criminal proceeding.

- **Lane Bateman:** Bateman was a faculty member who was arrested and charged with possession and distribution of child pornography in 1992. PEA fired him immediately, and he served time in prison. In 2016, PEA received an allegation that Bateman sexually abused a student in the 1980s and subsequently entered into a settlement with that alumnus.
- **Arthur Peekel:** Peekel assaulted an applicant visiting PEA who reported the incident immediately. PEA allowed Peekel to take a leave of absence and then to resign. There is no record that PEA reported the allegation to authorities, even after the alumnus in question followed up with Principal Kendra Stearns O'Donnell in the 1990s. Although there was a vague note in Peekel's file to "see the principal for more information," PEA apparently did not inform his subsequent employer of the assault and Peekel went on to teach high school elsewhere. PEA settled with the alumnus and Peekel was later pled guilty to sexual assault in New Hampshire.

- Henry Ploegstra: PEA terminated Ploegstra in 1980 for sexual misconduct involving two students. It gave him favorable job references, however, and paid him a year of severance. Ploegstra went on to teach at other secondary schools for over two decades, with no disclosure to those schools that he had been dismissed from PEA and the reasons behind it. 23 years later in 2012, a third former PEA student reported sexual abuse by Ploegstra that took place when he was 13 years old, and PEA informed the schools where Ploegstra subsequently taught. PEA did not disclose any of the allegations against Ploegstra to the PEA community until March 2017, nearly a year after the media scrutiny brought on by the allegations against Rick Schubart.
 - Thomas Wood: Thomas worked in admissions from 1965 to 1967. In 2013, a former student reported sexualized touching when he was 17 or 18 years old. PEA reported the allegation to authorities and other schools where Wood subsequently worked. One of those schools indicated that it had received additional allegations in the 1980s.
3. **Supplemental Information:** PEA provided additional information concerning (1) the process it followed in recent years when former students reported sexual abuse spanning the 1940s through 2015; (2) peer-to-peer abuse allegations and investigation by NP; and (3) current efforts “to prevent and address sexual misconduct.”

PEA represented that it could not commence its own investigations until the Exeter Police Department had completed its work, and apologized for the delay. PEA did not, however, disclose that its legal counsel had not provided the information sought by the Exeter Police in a timely manner, if ever, and that some of the delay in the Police investigations was due to PEA’s failure to cooperate. Nor did PEA disclose that its counsel at NP refused to allow state police free access to PEA personnel or that PEA’s own head of security told the state police to expect the PEA deans to be difficult and resistant when questioned, particularly the then Dean of Faculty, Ethan Shapiro.

Of critical note, PEA again here makes it clear that it worked with its lawyers “to determine whether there was sufficient information to warrant a full investigation of our own.” In other words, PEA did not turn over all allegations to outside investigators to determine – independently – whether there was sufficient evidence. PEA and its defense lawyers were the gate keepers and PEA has provided *no information* about how it made these determinations or whether concerns about legal liability or the protection of current faculty and deans influenced these decisions.

It is important to remember that during this time period, two PEA deans (Dean of Residential Life Arthur “AJ” Cosgrove and Dean of Students Melissa Mischke – both of whom remain presently in their positions) were nearly criminally charged for failure to report allegations of sexual abuse to authorities as required under NH mandatory reporting laws. PEA’s legal counsel was actively involved in lobbying authorities not to press charges. Under these circumstances, PEA’s lack of transparency regarding *all* of the allegations it received is troubling.

Of additional concern is PEA’s implication that there was any true independent investigation of peer-to-peer sexual abuse allegations. As stated above, PEA never informed alumni that it would be investigating peer-to-peer abuse allegations and never specifically solicited reports of such abuse. PEA’s defense counsel at NP handled the review of the 20 reports that came in, but only if PEA itself had determined that it believed there was sufficient information and the allegation had not previously been “addressed” by PEA or law enforcement.

So in short, PEA and its defense counsel handled all review of peer-to-peer sexual abuse. It is not surprising that although NP found that PEA grossly mishandled many of these allegations by failing

to report to authorities or even to parents in some cases, there are no disclosures of any details regarding which PEA faculty and administrators mishandled the allegations. Even with this obfuscation, however, this section indicates the horrible impact of these failures.

“The painful experiences shared by alumni survivors of student against student abuse highlighted the failures in the Academy’s prevention and response to abuse. Survivors described the tremendous impact of peer abuse on their educations, social and emotional lives at PEA, effect that remained with them long after their graduations from PEA, well into adulthood.”

“Some survivors who made reports felt insufficiently supported by the adults to whom they turned for help.”

PEA’s mishandling of peer-to-peer abuse reports “also resulted in students remaining on campus who may have posed a threat of harm to other students.”

“Reports of peer abuse showed that the Academy sometimes *failed to notify parents* of students who had reported abuse. In addition, in some instances, the Academy *did not report peer abuse that should have been reported to authorities . . . ; separated the reporting student and the other student if they lived in the same dorm; or did nothing in response to the report of abuse.*”

This is not to say, however, that the information PEA continues to conceal is not available elsewhere. For instance, we know from the Rockingham Files (as well as numerous media reports) that Deans Cosgrove and Mischke were among those who failed to report peer-to-peer abuse allegations, and that in at least one instance, Dean Cosgrove pressured a student and her advisor to characterize an incident as “harassment” that did not need to be reported to authorities rather than assault that did. His purported rationale for determining there had not been sexual abuse was that there had been no penetration. Cosgrove later apologized to state police during his interview, stating that “he could not believe they did not report it.”

We also know from the law enforcement files that numerous other PEA deans and staff likewise failed to report. There was apparently a common practice of putting the onus on the teenager who reported sexual assault to decide whether to report to law enforcement or initiate disciplinary proceedings. One alumna reported a sexual assault in 1995 to faculty and the dean on call that evening; the state police found that “these staff failed to further the reporting of this incident.”

In one particularly egregious situation in 1993, both a faculty member and the then Associate Dean of Students failed to report to authorities multiple allegations of sexual misconduct by a male student against female students. The student perpetrator was allowed to take a medical leave, and the Associate Dean of Students recommended in a letter to his parents that that “he receive immediate and long-term treatment which may be sought through a forensic psychiatry program which treats *sexual offenders.*”

As discussed above in our letter, the “ongoing efforts to prevent and address sexual abuse” at PEA are promising, if decades overdue. 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. As PEA faculty Amy Schwartz reported in an April 2016 email to Deans Cosgrove and Mischke, female students were not coming forward to report sexual assaults or harassment because “They feel the system is rigged against them.” We hope and trust that this is finally beginning to change.

Additional Analysis and Observations

Although PEA had periods of heightened awareness of sexual abuse issues following the Lane Bateman and Penn State criminal cases, it did not disclose abuse it was aware of until the Boston Globe Spotlight group went public with a story about Schubart in March 2016. Even then, it took several additional years for PEA to disclose the names of faculty members it had long known were sexually abusive of students.

The Rockingham Files contain numerous instances of credible allegations of inappropriate conduct by PEA faculty that are not contained in any of the reports PEA has provided to date. At least one instance was reported by another faculty member in a dormitory, and one was reported to police by PEA's security department. One frustrated student in the late 1990s went as far as to request contact information for trustees so he could report misconduct to them. PEA refused to provide the information, but the alumnus contends he did report to three trustees who he says never responded. A faculty member was reportedly fired in 2016 for inappropriately touching female students. None of these circumstances appear to have satisfied PEA's requirements for further investigation and none of them appear in the investigation summaries by H&K or NP.

Although Donald Foster may not have succeeded in coercing any PEA students or faculty into full sexual relationships, his misconduct was sweeping in scope and his case is one of the most perplexing and damning of the culture at PEA. PEA was on notice of inappropriate sexual conduct involving female students *and* teachers for decades and yet allowed him to remain on faculty until retirement.

PEA sent both Mangan and Schubart to alumni events after learning of their sexual misconduct toward students. We understand that Mangan encountered one of women he assaulted at one such gathering and that she contacted PEA to complain. Schubart assaulted at least one alumna at such an event.

The Rockingham Files contain a 15 page memorandum regarding NH's mandatory reporting laws prepared for PEA by an outside law firm in 2003, which includes a form for reporting compliance. This indicates that PEA was well aware of its obligations to report sexual abuse of students to authorities, but took no steps to train its personnel or students regarding these issues until mid-2016 after the Boston Globe disclosed the sexual abuse by Schubart.

Not discussed in the H&K summary, but known via reporting by the Boston Globe and other media outlets, Principal Thomas Hassan (PEA's Principal from 2009 to 2014) was a board member on the Association of Boarding Schools when it bestowed a prestigious award on Schubart in 2012 – after he had been forced to retire due to sexual abuse of a student. Hassan's mishandling of the Schubart situation became an issue in his wife's Senate campaign in 2016 and could have cost her the election. Despite Hassan's grave misconduct in his handling of Schubart, he is currently serving as the President of School Year Abroad.

It is also not clear why numerous incidents mentioned in the three documents did not satisfy PEA's purported Principals of Disclosure. It appears that PEA took a narrow view of its disclosure obligations, possibly on the recommendation of its defense counsel at NP. PEA needs to eliminate these restrictive standards and make a full accounting of sexual misconduct and administrative mishandling.