



The University of Scranton

SEXUAL HARASSMENT and SEXUAL MISCONDUCT POLICY

June 2018



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The University of Scranton

SEXUAL HARASSMENT and SEXUAL MISCONDUCT POLICY

Sponsor:

Office of Equity and Diversity

Responsible Office:

Office of Equity and Diversity

Provisional approval: August 22, 2014

Continuous review through 2014-2015

Review and update August 2016

Review and update August 2017

1. PURPOSE AND SCOPE OF POLICY

A. POLICY STATEMENT

As a Catholic, Jesuit institution of higher learning, The University of Scranton is committed to providing an educational, residential and working environment that is free from gender and sex-based discrimination. Members of The University of Scranton (the “University”) community, guests and visitors have the right to be free from all forms of gender and sex-based discrimination, examples of which include sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence and stalking.

All members of the University community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The University believes in a zero tolerance policy for sexual harassment and sexual misconduct. When a report of sexual harassment or sexual misconduct is brought to an appropriate University official’s attention, the University will take prompt and effective steps reasonably calculated to make any harassment or misconduct stop, eliminate a hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define our community expectations and to establish a mechanism for determining when those expectations have been violated.

This policy applies to conduct that takes place while on University property, at University sponsored events and activities, and off-campus programs including but not limited to study abroad programs, internships, student teaching, athletic events and business travel. This policy also applies to off campus conduct that violates the policy and has the effect of

interfering with or limiting one's ability to participate in or benefit from a work-related or educational program or activity.

B. REASON FOR POLICY

This policy provides The University of Scranton community with a clearly articulated set of behavioral standards, common definitions, and prohibited conduct. The policy is intended to guide students and employees who have experienced or been affected by sexual harassment or sexual misconduct, whether as a Complainant, a Respondent, witness or other participant in the process.

We recognize that an individual may choose to self-identify as a victim or a survivor. For consistency in the policy, the University will use the term Complainant. When used in this policy, a Complainant refers to the individual(s) who may have experienced sexual harassment or sexual misconduct, regardless of whether that individual makes a report or seeks formal disciplinary action. A Respondent refers to the individual(s) who has been accused of sexual harassment or sexual misconduct. A third party refers to any other participant in the process, including a witness to the incident(s) and/or an individual who makes a report on behalf of someone else.

The purpose of this policy is to:

- Define sexual harassment and the forms of sexual misconduct that violate the standards of our community
- Identify resources and support for all members of the University community (students and employees)
- Identify the Title IX Coordinator and the scope of the role
- Provide information as to where a student or employee can obtain support or access resources in a confidential manner
- Provide information as to how a student or employee can make a report with the University and/or with the police
- Provide information as to how a report against a student or an employee will be investigated, evaluated and adjudicated.

C. ENTITIES AFFECTED BY THIS POLICY

This policy applies to all members of the University community, including students, employees, and third parties (including independent contractors, vendors, visitors and guests). When used in this policy, employee generally refers to both staff and faculty members. Unless specifically noted, references to employee do not include student employees.

All students and employees of the University are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. As such, this policy applies to conduct on campus or in the context of an education program or activity. This includes off campus conduct that has continuing adverse effects on campus, in the context of an education program or activity, or where the conduct has the potential to adversely affect any member of the University of Scranton community. Education programs or activities include activities that take place during study abroad, internship programs and events for school clubs or organizations that occur off campus, including athletic events.

D. WEBSITE ADDRESS FOR THIS POLICY

<http://www.scranton.edu/equity-diversity/docs/sh-sm-policy.pdf>

E. COORDINATION WITH DISCRIMINATORY HARASSMENT POLICY FOR OTHER FORMS OF UNLAWFUL DISCRIMINATION

The University recognizes that discrimination and harassment related to an individual's sex can occur in conjunction with conduct related to an individual's race, color, ethnicity, national origin, religion, age, sexual orientation, disability or other protected characteristics. Targeting individuals on the basis of these characteristics is also a violation of University Policy. Under these circumstances, the University will coordinate the investigation and resolution efforts under the procedures outlined in this policy to address discriminatory or harassing conduct related to the targeted individual's sex and/or gender together with the conduct related to the targeted other protected characteristics.

F. COORDINATION WITH STUDENT CODE OF CONDUCT FOR ALLEGED MULTIPLE VIOLATIONS

When a complaint is made or charges are filed against a University student which alleges violations of the Student Code of Conduct in addition to an alleged violation of the Sexual Harassment and Sexual Misconduct Policy, and those alleged violations stem from the same event, course of conduct or related circumstances, all alleged violations will be processed, investigated and adjudicated under the procedures outlined in this policy rather than through the student conduct process outlined in the Student Code of Conduct.

G. CONTACTS

Title IX Coordinator

Christine M. Black

Assistant Director and Interim Title IX Coordinator

Office of Equity and Diversity

Institute of Molecular Biology and Medicine, Suite 104

Phone: (570) 941-6645

E-mail: Christine.black@scranton.edu

Website: www.scranton.edu/equity-diversity

The Title IX Coordinator oversees the University's central review, investigation and resolution of reports of sexual harassment and sexual misconduct under the University's complaint processes and coordinates the University's compliance with Title IX.

The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment and sexual misconduct;
- Knowledgeable and trained in state and federal laws that apply to matters of sexual harassment and sexual misconduct, as well as University policy and procedure;
- Available to advise any individual who believes that he/she has been sexually harassed about what support, resources and courses of action are available at the University;
- Available to advise any individual against whom a complaint may have been made about the process;
- Available to provide assistance to school law enforcement unit employees regarding how to respond appropriately to reports of sexual violence; and
- Responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures.

Deputy Title IX Coordinators

Deputy Title IX Coordinator - Students

Ms. Lauren Rivera

Associate Vice Provost for Student Formation & Campus Life and Dean of Students
Suite 201, The Patrick & Margaret DeNaples Center

Phone: (570)941-7680 E-mail: lauren.rivera@scranton.edu

Website: www.scranton.edu/dos

Deputy Title IX Coordinator - Employees

Ms. Patricia Tetreault

Associate Vice President, Human Resources
St. Thomas Hall, Suite 100

Phone: (570)941-7767 E-mail: patricia.tetreault@scranton.edu

Website: www.scranton.edu/hr

II. NOTICE OF NON-DISCRIMINATION

The University is committed to providing a safe and nondiscriminatory environment for all students, employees, guests and visitors to our campus. The University does not discriminate on the basis of race, color, national origin, sex, disability, religion, age, veteran status, gender identity or expression, sexual orientation, or any other protected class.

The University reaffirms its long-standing philosophy and principles of non-discrimination, non-harassment, and non-retaliation for protected characteristics for all members of the University community. This policy addresses discrimination on the basis of sex. Please see the University's Discriminatory Harassment Policy for all other forms of unlawful discrimination.

The University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sexual harassment, including sexual misconduct as defined in this policy, is a form of sex discrimination prohibited by Title IX of the Education Amendments of 1972. Title IX requires that

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, the Pennsylvania Human Relations Act, and other applicable statutes.

This policy prohibits sexual harassment and sexual misconduct against all University community members, visitors and guests regardless of gender, gender identity, gender expression or sexual orientation. This policy also prohibits gender-based harassment that does not involve conduct of a sexual nature.

III. PRIVACY AND CONFIDENTIALITY

The University encourages the reporting of all incidents of sexual harassment and sexual misconduct and is committed to protecting the privacy of all individuals involved in the investigation and resolution of a report under the Sexual Harassment and Sexual Misconduct Policy. The University also is committed to providing assistance to help individuals make informed choices. With respect to any report under this Policy, the University will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to assess the report and to take steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects.

Privacy and confidentiality have distinct meanings under the Sexual Harassment and Sexual Misconduct Policy:

Privacy: Privacy means that information will be shared only with University employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University’s response to reports of prohibited conduct receive specific training about sharing and safeguarding private information in accordance with state and federal law. Further, the University will maintain as private, any accommodations or protective measures provided to the extent that maintaining such confidentiality would not impair the University’s ability to provide the accommodations or protective measures.

Confidentiality: Confidentiality exists in the context of laws that protect certain relationships, including with medical and clinical care providers (and those who provide administrative services related to the provision of medical and clinical care), mental health providers, and ordained clergy, all of whom may engage in confidential communications under Pennsylvania law. The University has designated individuals who have the ability to have privileged communications as “Confidential Employees.” When information is shared by an individual with a Confidential Employee or a community professional with the same legal protections, the Confidential Employee (and/or such community professional) will not reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information or when a student requests assistance from the Confidential Employee in making a report. For example, information may be disclosed when an individual gives written consent for its disclosure or there is a concern that the individual will likely cause serious physical harm to self or others or, in the case of suspected abuse or neglect of a minor under the age of 18, where the law obligates the otherwise Confidential Employee to report to the proper authorities.

IV. REPORTING INFORMATION

The University has a strong interest in supporting those who have experienced sexual harassment, sexual assault, sexual exploitation, intimate partner violence and stalking and encourages all community members to report any incident of prohibited conduct. The University cannot take appropriate action unless the University is informed of the allegation.

An individual who reports sexual harassment or sexual misconduct, whether the Complainant or a witness, can be assured that all reports will be taken seriously, and that each individual will be treated with dignity and respect. Similarly, all participants in the process, including the Respondent, can expect to be treated fairly and respectfully.

Although the University has a strong interest in having individuals report sexual harassment and sexual misconduct, the University realizes that not every individual chooses to or is prepared to make a formal report for resolution. Each individual will decide if and how they choose to report and that decision may be influenced by a variety of factors. Even after making a report, a Complainant is not expected or required to pursue a specific course of action. It is an individual’s decision to participate in a criminal process, the University process, both or neither.

A. Emergency Services and Immediate Care

The first priority for any individual is personal safety and well-being. The University encourages all individuals to seek immediate assistance from University Police (570-941-7777), the City of Scranton Police Department at 911 and/or a medical facility. This is the best way to address immediate safety concerns while allowing for the preservation of evidence and an immediate investigative response. The University will assist in these reporting options by providing transportation to the hospital, coordination with local law enforcement, and information about the University's resources and complaint processes.

If you have experienced sexual misconduct, including sexual assault:

- **Preserve all evidence of the sexual assault or other form of sexual misconduct.**
 - Do not bathe, change or dispose of clothing, use the restroom, wash hands, brush teeth, eat or smoke.
 - If you are still at the location of the incident, do not clean anything.
 - Write down all the details you can recall about the incident and the perpetrator including any information related to previous concerning behavior or history.

- **In cases of sexual assault, seek medical care as soon as possible.** Even if you do not have any visible physical injuries, you may be at risk of acquiring a sexually transmitted infection (women may also be at risk for pregnancy).
 - Contact information for local hospitals can be found in the Resources and Support Services section of this policy.
 - Ask the health care professional to conduct a Sexual Assault Forensic Exam (SAFE).
 - If you suspect you were drugged, request collection of a urine or blood sample.

B. Report to the Police

Sexual assault and other forms of sexual misconduct are not only University policy violations but may also be crimes. Individuals are encouraged, but not required, to report these crimes to the police. If an individual chooses, University officials will assist in contacting the police.

The University of Scranton Police Department – (570) 941-7888 or (570) 941-7777 for an emergency

City of Scranton Police - (570)348-4134 or 911 for an emergency

C. Report to the University

Sexual harassment and sexual misconduct are prohibited by The University of Scranton and are violations of University policy. In an effort to support individuals as well as the campus community, the reporting options below will initiate a response process by the University. If you wish to speak with someone for confidential support, please see the confidential resources listed in this policy. Individuals are encouraged to directly report information regarding any incident of sexual harassment or sexual misconduct to any of the following reporting options*:

Title IX Coordinator

Christine M. Black

Assistant Director and Interim Title IX Coordinator

Office of Equity and Diversity

Institute of Molecular Biology and Medicine, Suite 104

Phone: (570) 941-6645 E-mail: Christine.black@scranton.edu

Website: www.scranton.edu/equity-diversity

Deputy Title IX Coordinator - Students

Ms. Lauren Rivera

Associate Vice Provost for Student Formation & Campus Life and Dean of Students

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Ms. Patricia Tetreault

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Phone: (570)941-7767 E-mail: patricia.tetreault@scranton.edu

Website: www.scranton.edu/hr

The University of Scranton Police Department

Campus Parking Pavilion

Phone: 570-941-7777 (emergency) or 570-941-7888 (non-emergency)

Website: www.scranton.edu/police

Online Anonymous Reporting

The University of Scranton Police Silent Witness Program

Website: www.scranton.edu/silentwitness

The Silent Witness Program should not be used for emergency or crisis situations needing an immediate law enforcement or medical emergency response.

***Required Reporter Statement**

University policy provides that every employee (except those specifically identified as a “confidential” resource) who receives information of sexual harassment or sexual misconduct involving a student as a complainant, respondent or witness is required to share all relevant details (obtained directly or indirectly) with the Title IX Coordinator. Resident Assistants, Graduate Teaching Assistants, and Student Officers are also required reporters.

While students are encouraged to directly report information to the designated reporting options listed above, the University recognizes that a student may choose to share information regarding sexual harassment and sexual misconduct with other employees of the University (e.g. a Resident Assistant, faculty member, or coach). The University is committed to ensuring that all reports are shared with the Title IX Coordinator for consistent application of the Sexual Harassment and Sexual Misconduct Policy to all individuals and to allow the University to respond promptly and equitably to eliminate the prohibited conduct, prevent its recurrence and address its effects.

1. Time Frame for Reporting

Individuals are encouraged to report sexual harassment and sexual misconduct immediately in order to maximize the University’s ability to respond promptly and effectively. The University does not, however, limit the timeframe for reporting. If the Respondent is no longer a student or employee, the University will meet its Title IX obligation by providing reasonably available accommodations or interim measures for a Complainant, assisting the Complainant in identifying external reporting options, and taking reasonably available steps to end the harassment, prevent its recurrence, and address its effects. Those steps may be limited if the Respondent is no longer affiliated with the University.

2. Coordination with Law Enforcement

To the extent permitted by applicable law, the University will cooperate with outside law enforcement investigations. However, outside law enforcement agencies do not investigate Title IX violations and will only respond to allegations of criminal behavior. Where the alleged conduct may also be a crime, the University encourages reporting to both the University *and* to an outside law enforcement agency. It is an individual’s decision to participate in a criminal process, a University process, both or neither.

Because the goals and objectives of the University’s Sexual Harassment and Misconduct Policy differ from those of the civil and criminal justice systems, under circumstances which give rise both to violations of the Sexual Harassment and Misconduct Policy and to violations of local, state or federal law, Title IX proceedings generally move forward without regard to pending civil or criminal proceedings. Proceedings under the University’s Sexual Harassment and Misconduct Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus. On-campus

resolution does not preclude or limit a student's or employee's access to the state and federal justice systems.

If an individual reports sexual harassment or sexual misconduct committed by an individual who is not a member of the University community, the Complainant can speak with the Title IX Coordinator or designee to discuss options such as contacting outside law enforcement authorities and/or removing the individual(s) from campus. If an individual accused of violating this policy is a guest, the host may be held accountable for the guest's behavior.

3. Amnesty for Conduct Violations for Complainants and Witnesses

The University encourages reporting and seeks to remove barriers to reporting by making the procedures for reporting transparent and straightforward, prohibiting retaliation and providing amnesty for individuals who report prohibited conduct. The University will generally not seek to hold any student who reports sexual harassment or sexual misconduct accountable for their own conduct at or near the time of the event which may have constituted a violation of the Student Code of Conduct, provided that any such violations did not and do not place the health and safety of any individual at risk. This means, for example, that students reporting sexual harassment or sexual misconduct will generally not face disciplinary action due to the personal ingestion of alcohol or other drugs. The University may choose, however, to pursue educational remedies including assessment and counseling, for those individuals.

4. Bystanders

The University encourages all community members to take reasonable and prudent actions to prevent or stop sexual harassment, sexual assault, sexual exploitation, intimate partner violence or stalking. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement, reporting the incident to campus officials or seeking assistance from an individual in authority. Community members who chose to exercise this positive, moral obligation will be supported by the University and protected from retaliation.

The University provides ongoing training programs and opportunities for students and employees to learn more about bystander intervention.

5. Statement Against Retaliation

It is a violation of University policy to retaliate in any way against a student or employee because he or she raised allegations of sexual harassment or sexual misconduct or participated in good faith in a resolution process. The University recognizes that retaliation can take many forms and may be committed by or against an individual or a group. The University will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate.

An individual reporting sexual harassment, sexual assault, sexual exploitation, intimate partner violence or stalking is entitled to protection from any form of retaliation following a good faith report, even if the report is not later substantiated.

6. False Reports

The University takes the validity of information very seriously as a charge of sexual harassment, sexual assault, sexual exploitation, intimate partner violence or stalking may have severe consequences. A good faith report that results in a finding of not responsible is not considered a false or fabricated accusation of sexual misconduct. However, when a Complainant is found to have fabricated allegations intentionally or with malicious intent, the Complainant will be subject to discipline in the employment context (as an employee) or may be found in violation of the Dishonesty provision of the Student Code of Conduct (as a student). The Complainant's behavior may also violate state criminal statutes and civil defamation laws. Similarly, a Respondent or witness who is later proven to have intentionally given false information during the course of an investigation may be subject to disciplinary action.

V. RESOURCES AND SUPPORT SERVICES

Various resources within the University and local community are available for individuals who have experienced sexual harassment or sexual misconduct of any kind. Regardless of which resource(s) an individual chooses to access, the situation will be handled with sensitivity and care to protect the privacy of the student/s involved.

Medical Support Services

Medical Services in cases of sexual assault or other sexual misconduct are best handled by a hospital when an individual seeks assistance as soon as possible following the incident. Medical treatment and the ability to preserve evidence is available within blocks of the University campus. An individual *does not* need to provide health insurance information to the hospital for a Sexual Assault Forensic Exam.

Geisinger Community Medical Center

1800 Mulberry St.
Scranton, PA 18510
(570) 969-8000

The Regional Hospital of Scranton

746 Jefferson Ave.
Scranton, PA 18510
(570) 348-7951

Moses Taylor Hospital

700 Quincy Ave.
Scranton, PA 18510
(570) 340-2900

If an individual visits a hospital for an exam, both the police and Women's Resource Center of Lackawanna County (WRC) should be notified by the hospital. The individual may choose whether or not to speak to the police and/or the WRC. If the individual chooses to speak to the police, he or she still has the option of whether or not to file charges against the individual accused. The WRC Advocate will be able to provide support and information through the process.

The University also provides confidential support and assistance through Student Health Services (570-941-7667) from 8:30 a.m.-5:00 p.m. Monday through Thursday and Friday 8:30 a.m.-4:30 p.m. during the academic year. Student Health Services is located at the corner of North Webster Avenue and Mulberry Street in the Roche Wellness Center.

Confidential Resources and Support Services

An individual who desires confidentiality should make contact with one of the confidential resources/support services listed below. Information shared with a confidential resource does not have to be reported to the University, Title IX Coordinator or law enforcement for investigation unless the individual disclosing the confidential resources later chooses to engage those resources or a legal exception exists.

The University of Scranton Counseling Center (570-941-7620) provides confidential counseling services to University students from Mon-Fri 8:30am-4:30pm during the academic year. The Counseling Center is located on the 6th floor O'Hara Hall, at the corner of Linden and Jefferson. Upon request, the Counseling Center will provide counseling as well as referrals to agencies off-campus.

Student Health Services (570-941-7667) provides confidential medical support and assistance to University students from 8:30 a.m.-5:00 p.m. Monday through Thursday and Friday 8:30 a.m.-4:30 p.m. during the academic year. Student Health Services is located at the corner of North Webster Avenue and Mulberry Street in the Roche Wellness Center.

Women's Resource Center of Lackawanna County (570-346-4671) is a confidential, community-based agency serving those who have experienced sexual assault or other sexual misconduct. A counselor/advocate can be reached 24 hours a day. A WRC advocate is also available on campus. Please contact the WRC for the on-campus advocate's hours and location.

National Sexual Assault Hotline (800-656-HOPE) is a free, confidential national resource available 24 hours a day by calling or online at www.rainn.org

The Employee Assistance Program (EAP), (1-800-327-2255) BalanceWorks, offers professional counselor services to employees, including confidential counseling in-person or over the phone for a variety of stressful issues including sexual harassment and misconduct. Member and group numbers may be found by visiting www.scranton.edu/hr, click on Benefits > Additional Benefits > Employee Assistance Program.

Additional Resources and Support Services (Private but not Confidential)

Regardless of which resource(s) an individual chooses to access, the situation will be handled with sensitivity and care to protect the privacy of the individual/s involved.

Campus Ministries (570-941-7419) is located the DeNaples Center, Suite 200 and offers pastoral support for students. Students may stop by the office and ask to speak to a priest or campus minister or schedule an appointment. Although Campus Ministries staff are not a confidential resource, ordained priests *acting in their pastoral capacity* are confidential and will not report to the Title IX Coordinator.

The Jane Kopas Women's Center (570-941-6194) is located in the DeNaples Center, Suite 205. The Center is a safe and comfortable gathering place for students that also provides educational programming, leadership development, resources and referrals.

www.scranton.edu/CARE is a website maintained by the University which provides information and resources for those in our campus community who have experienced or witnessed sexual harassment or sexual misconduct.

The Title IX Coordinator (570-941-6645) is located in the Office of Equity and Diversity. This office located in the Molecular Biology Institute, Room 100, provides programs, resources, and support. The Title IX Coordinator, Christine M. Black (Interim), is available to discuss any questions regarding the Sexual Harassment and Sexual Misconduct Policy, to assist an individual in accessing resources and support services and to facilitate the investigation and resolution of reports of conduct that may violate the Sexual Harassment and Sexual Misconduct Policy.

University Police (570-941-7777) are available to coordinate with various resources to provide for the safety and well-being of the individual who experienced sexual assault or another form of sexual misconduct. This may include transporting a student to a hospital for medical care, assisting in obtaining a Protection from Abuse Order from the local court, and/or coordinating with appropriate legal authorities including the Lackawanna County District Attorney's Office and the Victim/Witness Unit.

The Dean of Students/Deputy Title IX Coordinator (570-941-7680), Lauren Rivera, is located in the DeNaples Student Center, Suite 201 The Dean of Students (or designee) meets with students to offer support and resource information, safeguard the larger University community, discuss formal reporting options, and review the Title IX investigation process. The following is an outline of the information, resources and support provided by the Dean of Students ("Dean"):

- Assess Student Welfare, determining if immediate medical or other attention is necessary and/or desired.
- Triage the need for and provide information about support services and/or resources (either on or off campus). As part of this process, the Dean will refer the student to the law enforcement (if not already contacted) for an investigation and/or explanation of options if the student chooses. If the student chooses not to speak with University

Police or local police, this request will be honored. If the Dean believes there is an *imminent danger* to the student or to the larger University community, the Dean will contact University Police.

- Provide information about and assistance in obtaining interim measures, including, but not limited to, no contact directives and academic support.
 - The Dean works closely with academic deans across the University to assist the student with academic concerns and issues that may arise as a result of a sexual assault or other sexual misconduct.
 - The Dean may issue a “no contact directive” preventing direct or indirect contact in cases where multiple students are involved. It is enforceable through the University’s Student Code of Conduct.
 - The Dean also assists with housing accommodations in the event that involved students live in close proximity to or have classes with each other
- Discuss formal reporting options by reviewing the University’s Sexual Harassment & Sexual Misconduct Policy and referring interested students to the appropriate police authority or community advocates to learn more about the criminal process.

VI. INTERIM MEASURES (Protective Measures Following an Initial Report)

A. Overview

Upon receipt of a report of sexual harassment or sexual misconduct, and potentially through the completion of any appeals, the University will take reasonable and appropriate interim measures to protect the parties involved and reduce any further risk for members of our campus community. The Title IX Coordinator, Deputy Title IX Coordinator or designee, will contact the parties and remain available to ensure that safety and emotional and physical well-being concerns are being addressed. Interim measures may be imposed at any time regardless of whether formal disciplinary action is sought by the Complainant or the University in order to ensure the preservation of the Complainant’s educational experience and the overall University environment. Interim measures will be kept private, to the extent that maintaining the privacy would not impair the ability of the University to provide the interim measures.

A Complainant or Respondent may request an administrative no contact or other protection, or the University may choose to impose interim measures at its discretion to ensure the safety of all parties, the broader University community and/or the integrity of the process. A decision to arrange for such administrative no contact or other protection need not be based on a finding of responsibility, and shall not be interpreted as a finding of fault. Interim Measures are initiated based on information gathered during a report and are not intended to be permanent resolutions; hence, they may be amended or withdrawn as additional information is gathered.

Where the report of sexual harassment or sexual misconduct poses an ongoing risk of harm to the safety or wellbeing of an individual or members of the campus community, the University may place an individual student on Interim Suspension. Pending resolution of the complaint, the individual may be denied access to campus. During Interim Suspension, a student may or may not continue their coursework as outlined in the Interim Suspension letter. Similarly, the University may determine a leave of absence for an employee or other interim remedies as necessary and appropriate.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. The University will take immediate and responsive action to enforce a previously implemented measure.

B. Range of Measures

Interim measures will be implemented at the discretion of the University, and will be established by the Title IX Coordinator and the Central Review Team. Potential remedies, which may be applied to the Complainant and/or the Respondent, include but are not limited to:

- Instituting an Administrative Directive for No-Contact between involved parties
- Limiting an individual's access to certain facilities or activities pending resolution
- Referring to counseling and health services
- Referring to the Employee Assistance Program
- Providing education and advisories to the community
- Altering the housing situation of the reporting or responding party
- Offering adjustments to academic deadlines, course schedules, etc.
- Providing academic support services, such as tutoring
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation assistance to the hospital
- Issuing interim suspensions pending an investigation and determination
- Any other measure which can be tailored to the involved parties to achieve the goals of the University's policy

VII. PROHIBITED CONDUCT AND DEFINITIONS

A. SEXUAL HARASSMENT AND SEXUAL MISCONDUCT OFFENSES INCLUDE, BUT ARE NOT LIMITED TO¹:

- 1. Sexual or Gender Based Harassment**
- 2. Sexual Assault**
- 3. Sexual Exploitation**
- 4. Intimate Partner Violence (Domestic and Dating Violence)**
- 5. Stalking**

¹ For pertinent state statutes on the offenses covered under this policy please see Appendix A.

6. Retaliation

- **SEXUAL OR GENDER-BASED HARASSMENT**

Sexual Harassment is defined as any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in (a) and/or (b) below are present.

Gender-based Harassment is defined as harassment based on gender, sexual orientation, gender identity or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined in (a) and/or (b), below, are present.

- a) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic success, or participation in any University programs and/or activities or is used as the basis for University decisions affecting the individual (often referred to as "*quid pro quo*" harassment); or
- b) Such conduct has the purpose or effect of creating a hostile environment. A "hostile environment" exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University's education or employment programs and/or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:
 - The frequency, nature and severity of the conduct;
 - Whether the conduct was physically threatening;
 - The effect of the conduct on the Complainant's mental or emotional state;
 - Whether the conduct was directed at more than one person;
 - Whether the conduct arose in the context of other discriminatory conduct;
 - Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and
 - Whether the conduct implicates concerns related to academic freedom.

Sexual and gender-based harassment can take many forms:

- It can occur between equals (e.g., student to student, staff to staff, faculty member to faculty member, visitor/contractor to staff) or between persons of unequal power status (e.g., supervisor to subordinate, faculty member to student, coach to student-athlete).
- It can be committed by or against an individual, an organization or group.
- It can be committed by an acquaintance, a stranger, or someone with whom the Complainant has an intimate or sexual relationship.
- It can occur by or against an individual of any sex, gender identity, gender expression or sexual orientation.
- It can include physical conduct, verbal conduct, visual conduct, written conduct and electronic conduct.
- **SEXUAL ASSAULT** is defined as any non-consensual attempted or completed sexual intercourse (oral, anal, or vaginal) with a body part and/or object.
- **SEXUAL EXPLOITATION** is defined as conduct that exploits another person in a sexual and non-consensual way, including, but not limited to:
 - a) non-consensual touching, fondling, or kissing,
 - b) causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity,
 - c) non-consensual voyeurism (e.g., watching private sexual activity without the knowledge of all of the participants, from a hidden location or through electronic means),
 - d) allowing others to view sexual activities without the consent of all of the participants,
 - e) non-consensual recording or photographing of private sexual activity and/or a person's intimate parts (audio or visual),
 - f) non-consensual dissemination or posting of images or recordings of private sexual activity and/or a person's intimate parts,
 - g) exposure of one's body in an indecent or lewd manner,
 - h) sexual activity in public or semi-public places,
 - i) prostituting another person, or

j) knowingly exposing another person to a sexually transmitted infection or virus without the other's knowledge

- **INTIMATE PARTNER VIOLENCE (DOMESTIC AND DATING²VIOLENCE)** is defined as any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate Partner Violence includes threatening or causing physical harm or engaging in other conduct that endangers the health or safety of an intimate partner. It may involve one act or an ongoing pattern of behavior. Intimate Partner Violence can encompass a broad range of behavior, including, but not limited to threats, assault, property damage, violence or threat of violence to one's partner or to the family members or friends of the partner.
- **STALKING** is defined as a course of conduct (more than once) directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Examples of stalking include following the person without proper authority or repeatedly communicating with another person, under circumstances that place such other person in reasonable fear of bodily injury or cause substantial emotional distress to such other person. Stalking includes the concept of cyber – stalking, a particular form of stalking in which electronic media is used to pursue, harass, or to make repeated unwanted contact with another person in an unsolicited fashion. Stalking may involve persons who are known to one another or have an intimate or sexual relationship, or may involve persons not known to one another.
- **RETALIATION** is defined as acts or words taken against an individual because of the individual's participation in a protected activity that would discourage a reasonable person from engaging in that protected activity. Protected activity includes an individual's good faith: (i) participation in the reporting, investigation or resolution of an alleged violation of this Policy; or (ii) opposition to policies, practices, or actions that the individual reasonably believes are in violation of the Policy. Retaliation may include intimidation, threats, coercion, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith was not substantiated. Acts or attempts to retaliate or seek retribution against anyone involved in or connected to an allegation and/or resolution of sexual harassment or sexual misconduct.

² Intimate Partner Violence includes "dating violence" and "domestic violence," as defined by VAWA. Consistent with VAWA, the University will evaluate the existence of an intimate relationship based upon the Complainant's statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

B. CONSENT AND RELATED CONCEPTS: Incapacitation, Alcohol, Intimate Partner Violence

Consent: The expectations of our community regarding sexual misconduct are summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity.

Consent is a positive exchange of words or actions that indicate a willingness to participate freely and voluntarily in mutually agreed upon sexual activity. Effective consent cannot be given under the following circumstances:

1. a person is physically or mentally incapacitated, including when the incapacitation stems from alcohol or other drugs;
2. A person is unconscious;
3. A person is asleep; and/or
4. A person is under the age of consent (16 in Pennsylvania).

Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in sexual activity. Relying on non-verbal communications can lead to misunderstandings. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. The existence of a dating relationship between persons (including past sexual relations), by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity. Silence, passivity, lack of resistance or lack of active response alone--without actions demonstrating permission--cannot be assumed to show consent.

Either party may withdraw consent at any time. Withdrawal of consent must also be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

Consent is not effective if it results from the use of physical force, threat of physical force, intimidation, coercion, incapacitation or any other factor that would impact an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact.

Prior to engaging in sexual activity, each participant should ask oneself the question, "has the other person consented?" If the answer is 'no' or "I'm not sure," then consent has not been demonstrated and does not exist. An individual who initiates sexual activity should be able to explain the basis for his/her belief that consent existed.

Coercion: Coercion is the use or attempted use of pressure and/or oppressive behavior, including express or implied threats, intimidation, or physical force, which places a person in fear of immediate harm or physical injury or causes a person to engage in unwelcome sexual

activity. A person's words or conduct cannot amount to coercion unless they wrongfully impair the others' freedom of will and ability to choose whether to engage in sexual activity. Coercion also includes administering or pressuring another to consume a drug, intoxicant, or similar substance with the intent to impair that person's ability to consent prior to engaging in sexual activity.

Incapacitation: An individual who is incapacitated cannot consent to sexual activity. Incapacitation is the inability, temporarily or permanently, to give consent, communicate consent, or express unwillingness, because an individual is mentally and/or physically helpless, unconscious, asleep, or unaware that the sexual activity is occurring. Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness, intoxication or impairment. In assessing the impact of incapacitation, the University will consider whether a Respondent knew or should have known that the Complainant was incapacitated based on objectively and reasonably apparent indicators of incapacitation.

Alcohol or other drugs: The University considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and drugs impair a person's decision making capacity, awareness of consequences, and ability to make informed judgements. Because alcohol or drug use can place the capacity to consent in question, sober sexual activity is less likely to raise such questions. When alcohol or other drugs are used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction because they lack the capacity to reasonably understand the situation. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication or impairment. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the safest course of action is to forgo or cease any sexual contact or activity. Being intoxicated or impaired by drugs or alcohol does not diminish an individual's responsibility to obtain informed and freely given consent.

VIII. REVIEW, INVESTIGATION AND RESOLUTION OF COMPLAINTS

A. CENTRAL REVIEW TEAM FOR INVESTIGATION AND RESOLUTION

Although a report may come in through many sources, the University is committed to ensuring that all reports are referred to a central review team which ensures consistent application of the policy to all individuals and allows the University to respond promptly and equitably to eliminate harassment, prevent its recurrence and eliminate its effects. This central team, led by the Title IX Coordinator, assists in the review, investigation and/or resolution of the report. Members of this interdepartmental team include: the Title IX Coordinator, the Dean of Students, the AVP for Human Resources, and others as may be necessary. University policy provides that any employee who receives a report of sexual harassment or misconduct must share the report to a member of this team.

The members of this team oversee the resolution of reported harassment or misconduct through the University's complaint processes. The process followed will be determined by the role of the Respondent. Each process is guided by the same principles of fairness and respect for all parties. Resources are available for both students and employees, whether as

Complainants or Respondents, to provide guidance throughout the investigation and resolution of the complaint.

B. TIME FRAME FOR RESOLUTION

The investigation and resolution of all reports will generally be completed within 60 calendar days. Extenuating circumstances may arise that require the complaint process to extend beyond this time period. In the event that the investigation and resolution exceed this time frame, the University will notify all parties of the need for additional time and best efforts will be made to complete the process in a timely manner.

C. OFF-CAMPUS LAW ENFORCEMENT OR CRIMINAL INVESTIGATION

The University encourages Complainants to pursue criminal action for behaviors that may also constitute crimes under Pennsylvania law. The University, through the University of Scranton Police Department, will assist a Complainant in making a criminal report and will cooperate with local law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of this policy, criminal investigations are not determinative of whether sexual misconduct, for purposes of this policy, has occurred. In other words, conduct may constitute a violation under this policy even if law enforcement agencies decline to prosecute or if a Respondent has been found not guilty in the legal system.

D. SUPPORT PERSON

During any stage of the Complaint process where a personal appearance is necessary, the Complainant and the Respondent have the right to have a support person present if they so choose. The support person may be a member of the University community, a family member, friend, attorney or other person chosen by each party. The support person cannot participate in the Complaint process, speak on behalf of the Complainant or Respondent or be a material witness to the matter being investigated.

E. COMPLAINT PROCESS

1. Overview of Options

The University is committed to providing all members of the University community with a safe place to live and learn. Consistent with this priority, the University will respond promptly and equitably to all allegations of sexual harassment and sexual misconduct. Any individual may bring an allegation under the Sexual Harassment and Sexual Misconduct Policy which will trigger a review of the complaint as outlined in this section.

The University's response to allegations of misconduct under this policy is pursued in three stages: report, review or investigation, and resolution. At each of these stages, the University

is committed to maintaining fairness for all parties and to balancing the needs and interests of the individuals involved with the safety of the community as a whole.

A complaint may be resolved by any of the following methods:

- (1) A Title IX inquiry (Initial investigation and review) in response to a report of sexual harassment or sexual misconduct;
- (2) Voluntary Resolution;
- (3) Invoking the Formal Sexual Harassment and Misconduct Policy Resolution Process.

2. Review and Investigation Generally:

As outlined in this policy, an individual may report to any University employee, who will ensure that the information is shared with members of the central review team, which includes the Title IX Coordinator, the Dean of Students, and the AVP of Human Resources. The University is committed to ensuring that all reports are referred to the central review team which ensures consistent application of the policy to all individuals and allows the University to respond promptly and equitably to eliminate harassment, prevent its recurrence and eliminate its effects. Members of this central review team will conduct or oversee an investigation that is thorough, fair and impartial.

The University's responsibility to review all allegations of sexual harassment and sexual misconduct exists regardless of whether that review culminates in additional investigation or goes through the Formal Investigation and Resolution Process, and exists independently of the criminal justice process. The incident will be investigated in a manner that ensures fairness to all parties involved, and, will include measures necessary to provide for the safety of the individual and of the University community. See Interim Measures.

In every report of sexual harassment or sexual misconduct, the University will make an immediate assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. The initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, the investigation may continue depending on a variety of factors, such as the request of the Complainant **not to proceed** and the risk posed to the any individual or the campus community by not proceeding. If the Investigation proceeds, the Respondent will be notified, in writing, within five days of the decision to commence a full investigation. If the Respondent is a full time faculty member, the Faculty Affairs Council Chair will be notified at that time in writing that a Complaint has been filed.

Where the University has received a report of sexual harassment or sexual misconduct, but the Complainant requests that his/her identity remain confidential or that the University not pursue an investigation, the University must balance this request in the context of its responsibility to provide a safe and non-discriminatory environment for all University community members. The University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited by the request for confidentiality. Under these circumstances, the University will weigh the request for confidentiality against the

following factors: the seriousness of the alleged harassment, the respective ages and positions of the Complainant and the Respondent and whether there have been other harassment complaints against the Respondent.

At all times, the University will seek to respect the request of the Complainant, and where it cannot do so, the University will consult with the Complainant and keep him/her informed about the chosen course of action.

The University may designate an investigator of its choosing. Investigators will typically be chosen from among a pool of investigators from the Office of Equity and Diversity, Student Formation & Campus Life, Human Resources and/or a trained outside investigator. Depending upon the circumstances, up to two investigators may be assigned to conduct an investigation. As described in the Privacy and Confidentiality section, all University investigations will respect individual privacy concerns.

The first step of an investigation in the formal process will usually be a preliminary interview of the Complainant. The University will then seek to collect additional information relevant to the report. This may include, but is not limited to, interviewing the Respondent and any other individuals who may have information relevant to the determination, and gathering evidence available. An investigation may also include consideration of prior allegations of, or findings of responsibility for, sexual harassment or misconduct by the Respondent.

A formal investigation will typically range from one to four weeks, although this time frame may be extended as necessary to achieve thorough and reliable gathering of the relevant facts. Information gathered during the investigation will be summarized in an "Investigation Report" and used to evaluate the appropriate course of action, provide for the safety of the individual and the University campus community, and impose remedies as necessary to address the effects of the alleged conduct. If the report proceeds to a Determination Panel, information gathered during the investigation will be summarized and presented to the Determination Panel in an "Investigation Report" for its consideration and evaluation in reaching a determination of responsibility under this policy.

The Investigative Report will include: (1) the Complainant's allegations; (2) the Respondent's reply to the allegations or suspected violations; (3) a summary of information provided by witnesses, documents, or other information obtained during the investigation; (4) a description of the investigation process; (5) credibility determinations; (6) findings of fact; and (7) the investigator's recommendation of whether the policy has been violated based upon a "preponderance of the evidence".

Before the investigation report is finalized and submitted to the Determination Panel, the Complainant and Respondent will be given the opportunity to review the information that will be used in reaching a determination of whether the policy has been violated. The draft report submitted to the Complainant and Respondent will contain sections (1) – (5) above. Consistent with FERPA or safety concerns, identifying information about the Complainant or Witnesses may be redacted at the discretion of the Title IX Coordinator. A Complainant and Respondent may submit any additional comment or evidence to the investigator/s within five (5) days of the opportunity to review the report. A Complainant and Respondent may also raise concerns about the inclusion of any evidence, even if relevant, that the party believes may be more harmful than probative.

Upon receipt of any additional information or comments by the Complainant or Respondent, or after the five (5) day comment period has lapsed without comment, the investigative team will prepare the final investigation report. In completing the report, the investigator/s in consultation with the Title IX Coordinator, will determine whether any information included in the report should be excluded. After any adjustments are made, in response to the comments and information received, the investigator/s shall determine and include in the final investigation report: (6) findings of fact and (7) the investigator's recommendation of whether the policy has been violated based upon a "preponderance of the evidence".

3. Resolution

The resolution of sexual harassment or sexual misconduct allegations may take one or a combination of three forms:

- **Title IX Inquiry (initial investigation and review)**

If a Complainant chooses not to participate in the University's response, a Title IX inquiry and review will still move forward. The purpose of this inquiry is to review the report and seek to reach a resolution that will eliminate any harassment, prevent its recurrence, and address its effects. When a report is made, the Title IX Coordinator will conduct an initial Title IX assessment. The first step of this assessment will usually be a preliminary meeting between the Complainant and appropriate member of the Central Review Team. In the course of this assessment, the University will consider the interest of the Complainant and the Complainant's expressed preference for manner of resolution. Where possible and supported by an assessment of the facts and circumstances, the University will seek action consistent with the Complainant's request.

As part of the initial assessment of the facts, the University will:

- Assess the nature and circumstances of the report
- Address immediate physical safety & emotional well-being
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding
- Notify the Complainant of the right to contact or decline to contact law enforcement if the conduct is criminal in nature, and if requested, assist them with notifying law enforcement
- Notify the Complainant of the availability of medical treatment to address physical and mental health concerns and to preserve evidence
- Notify the Complainant of the importance of preservation of evidence
- Enter the report into the University's crime log, if applicable, as required by the Clery Act

- Assess the reported conduct for the need for a timely warning under the Clery Act
- Provide the Complainant with information about on-and off-campus resources
- Notify the Complainant of the range of interim measures available
- Provide the Complainant with an explanation of the procedural options, including voluntary resolution and formal resolution
- Inform the Complainant and Respondent they may have a support person to assist them throughout the investigation and resolution of the complaint, and that the support person may accompany them to any meeting or proceeding under this policy.
- Assess for pattern evidence or other similar conduct by the Respondent/s
- Explain the University's policy prohibiting retaliation

The initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made, and the University has sufficient information to determine the best course of action.

At the conclusion of the Title IX Assessment, the Title IX Coordinator will determine the appropriate manner of resolution, which may include Voluntary Resolution or the initiation of an investigation to determine if disciplinary action is warranted. It is at the discretion of the Title IX Coordinator to determine which method of resolution is appropriate. Any individual wishing to explore alternative resolution methods is encouraged to discuss these options with the Title IX Coordinator or designee.

Where the Complainant requests that their identity not be shared with the Respondent or that the University not pursue an investigation, the University must consider this request in the context of the University's responsibility to provide a safe and non-discriminatory environment for all University community members. The University, through the Title IX Coordinator, will take all reasonable steps to investigate and respond to the complaint consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited by the request. Under these circumstances, the Complainant's request will be balanced against the following factors:

- The seriousness of the conduct;
- The respective ages and roles of the Complainant and Respondent;
- Whether the Respondent has a history of prior arrests, is the subject of prior reports and/or complaints related to any form of sexual harassment or sexual misconduct, or has any history of violent behavior;
- The right of the Respondent to receive notice and relevant information before disciplinary action is sought;
- Whether the circumstances suggest there is an increased risk of the Respondent committing additional acts of sexual misconduct or other violence;

- Whether the Respondent has a criminal record or prior conduct violations (at the University or elsewhere) indicating a history of sexual misconduct, violence and/or patterned behavior;
- Whether the Respondent threatened further sexual misconduct or other violence against the student or others;
- Whether the sexual misconduct was committed by multiple individuals;
- Whether the circumstances suggest there is an increased risk of future acts of sexual misconduct under similar circumstances;
- Whether the sexual misconduct was perpetrated with a weapon;
- Whether the sexual misconduct was facilitated through the use of “date rape” or similar drugs or intoxicants;
- Whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence); and,
- The Respondent’s right to receive information if such information is maintained in an “education record” under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 C.F.R. Part 99.

The University will take all reasonable steps to investigate and respond to the report consistent with the request not to share identifying information or pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Complainant. Where the University is unable to take action consistent with the request of the Complainant, the Title IX Coordinator or a member of the Central Review Team will inform the Complainant about the chosen course of action, which may include the University seeking disciplinary action against a Respondent. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant.

At the conclusion of the Initial Title IX Assessment, the Complainant will receive notice of the determination of how to proceed. Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution. A Respondent will be notified when the University seeks action that would impact a Respondent, such as protective measures that restrict the Respondent’s movement on campus and/or the initiation of the Voluntary or Formal Process for resolution.

- **Voluntary Resolution**

Voluntary resolution is utilized only when the Title IX Coordinator or her/his designee has determined this is a suitable option for resolving the concern, and both the Complainant and Respondent agree to use the process. Voluntary resolution is used where, based upon the conduct at issue, the likely outcome of a Determination Panel would not alter a student’s or an employee’s status with the University. Amicable and respectful discussion must be honored by all parties throughout the process if mediation is used as part of a voluntary resolution.

Voluntary resolution may include mediation with a member of the Office of Equity and Diversity, Student Formation & Campus Life, Human Resources or the Office of the Provost. The success of voluntary resolution requires that the meeting(s) include honest and candid dialogue, input from the parties involved, an acknowledgement and understanding of responsibility by the parties involved, and a resolution that is agreed upon by all participants. The resolution achieved in each incident will be based upon the specific incident under consideration.

Because the outcomes of voluntary resolution conversations are mutually developed and agreed upon by parties involved, an appeal of the process and its result is not permitted. If the parties are unable to agree on the outcomes of the voluntary resolution proceeding, any party may request that the matter be resolved through the Formal Process.

Sexual assault reports cannot be resolved using this process. All sexual assault reports not resolved through a Title IX inquiry, as above, must be considered through the Formal Process.

- **Formal Sexual Harassment and Misconduct Policy Resolution Process**

For all other allegations of sexual harassment or sexual misconduct a full investigation takes place, an Investigation Report is issued and a Determination Panel is convened. The Investigator makes a recommendation in the investigation report regarding whether it is more likely than not that the Sexual Harassment and Sexual Misconduct Policy has been violated based upon a “preponderance of the evidence”. The three person Determination Panel will consist of three employees chosen from a pool of trained professionals from Student Formation & Campus Life, Human Resources, Equity and Diversity and other trained faculty and staff. The Determination Panel makes a determination, based on a preponderance of the evidence, of whether a student or employee violated The Sexual Harassment and Sexual Misconduct Policy and/or any other applicable University policies based upon the investigative report and materials submitted by the investigator.

4. Sanctions

A student found responsible for sexual harassment and/or misconduct will face a minimum sanction of disciplinary probation up to and including expulsion. The range of sanctions are detailed in the student sanctioning guidelines attached as Exhibit B.

An employee found responsible for sexual harassment and/or misconduct will face appropriate disciplinary and corrective actions up to and including termination from employment. Such corrective actions may also include developmental, educational, remedial or corrective actions as warranted.

Sanction determinations for students will be made by the Vice Provost for Student Formation and Campus Life. Students found responsible for violations of the policy will be invited to meet with the Vice Provost in advance of the sanctions being issued. Sanction

determinations for employees will be made by the Provost or Supervising Vice President in consultation with The AVP of Human Resources.

5. Notice of Outcome and Sanctions

The University will communicate the outcome and any sanction(s) to the Complainant and Respondent in writing within five (5) business days of the sanction determination.

6. Appeals

The outcome or sanction can be appealed by either party within five (5) business days from the time of notification of the decision. The appeal may be based only on one or more of the following grounds:

- Procedures set forth in the Sexual Harassment and Sexual Misconduct Policy were not followed;
- New or relevant information, not available at the time of the determination, has arisen;
- The sanctions imposed were excessively harsh or excessively lenient for the violation.

Appeals must be in writing and submitted to the Vice Provost for Student Formation and Campus Life (for students) or the AVP for Human Resources (for employees). The appeal will be referred to an Appeal Panel chosen from a pool of trained professionals from Student Formation & Campus Life, Human Resources, Equity and Diversity and other trained faculty and staff. The appeal will typically be completed within ten (10) business days.

The appeal shall consist of a plain, concise, and complete written statement of the grounds for the appeal. The designated University official to whom the appeal was submitted shall determine whether grounds for appeal have been met and, if so, convene the Appeal Panel.

APPENDIX A

Pennsylvania State Legal Definitions related to the University's Sexual Harassment and Sexual Misconduct policy:

3121. Rape

A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

- (1) By forcible compulsion.
- (2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
- (3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.
- (4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.
- (5) Who suffers from a mental disability which renders the complainant incapable of consent.

3123. Involuntary deviate sexual intercourse

A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:

- (1) by forcible compulsion;
- (2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;
- (4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
- (5) who suffers from a mental disability which renders him or her incapable of consent; or

3124.1. Sexual assault.

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person

engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

3125. Aggravated indecent assault

(a) Offenses defined.--Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:

- (1) the person does so without the complainant's consent;
- (2) the person does so by forcible compulsion;
- (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;
- (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
- (6) the complainant suffers from a mental disability which renders him or her incapable of consent;
- (7) the complainant is less than 13 years of age; or
- (8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

(b) Aggravated indecent assault of a child.--A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.

3126. Indecent assault

(a) Offense defined.--A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:

- (1) the person does so without the complainant's consent;
- (2) the person does so by forcible compulsion;

(3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(4) the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;

(5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;

(6) the complainant suffers from a mental disability which renders the complainant incapable of consent;

(7) the complainant is less than 13 years of age; or

(8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

3127. Indecent exposure

(a) Offense defined.--A person commits indecent exposure if that person exposes his or her genitals in any public place or in any place where there are present other persons under circumstances in which he or she knows or should know that this conduct is likely to offend, affront or alarm.

(b) Grading.--If the person knows or should have known that any of the persons present are less than 16 years of age, indecent exposure under subsection (a) is a misdemeanor of the first degree. Otherwise, indecent exposure under subsection (a) is a misdemeanor of the second degree.

3131. Unlawful dissemination of intimate image

(a) Offense defined.--Except as provided in sections 5903 (relating to obscene and other sexual materials and performances), 6312 (relating to sexual abuse of children) and 6321 (relating to transmission of sexually explicit images by minor), a person commits the offense of unlawful dissemination of intimate image if, with intent to harass, annoy or alarm a current or former sexual or intimate partner, the person disseminates a visual depiction of the current or former sexual or intimate partner in a state of nudity or engaged in sexual conduct.

2709.1. Stalking.

(a) Offense defined.--A person commits the crime of stalking when the person either:

(1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or

(2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

APPENDIX B: SANCTIONING GUIDELINES FOR STUDENTS [CLICK HERE](#)