

# The University of Scranton

## **Student-Athlete Sexual Or Other Violence Annual Attestation Policy**

Executive Sponsor: Associate Vice  
President, Office of Institutional  
Compliance and Title IX  
Responsible Office: Athletics and the Office  
of Institutional Compliance and Title IX  
Effective Date: September 1, 2023

**Policy Statement:** The University of Scranton (“the University”) is committed to the overall well-being and safety of our University community including our student-athletes. Accordingly, the University strives to promote a campus culture that is free from all forms of violence. In 2021, the NCAA Policy on Campus Sexual Violence was revised [NCAA Sexual Violence Prevention Toolkit](#), and as a member of the National Collegiate Athletics Association (“NCAA”), the University is required to comply with an attestation requirement for student-athletes. The University is required to (1) annually administer an attestation form to all first-time first-year, continuing, and transfer student-athletes that asks the student-athlete about conduct that resulted in discipline through a Title IX, sexual misconduct, or student conduct proceeding or a criminal conviction for sexual violence, interpersonal violence, or other act of violence; and (2) take reasonable steps to confirm whether the students have been disciplined through one of the above enumerated processes.

The requirements below are subject to modification based on changes in federal or state law, and/or NCAA legislation. The University reserves the right to amend this Policy at any time, and the Policy becomes effective upon adoption.

### **Applicability:**

This policy applies to all student-athletes participating in intercollegiate athletics.

### **Policy Overview:**

A. All first-time first-year, continuing, and transfer student-athletes (hereinafter “Student Athletes”) must complete the annual attestation form related to their conduct that resulted in discipline through a Title IX, sexual harassment, sexual misconduct, or student conduct proceeding or in a criminal conviction for sexual violence, interpersonal violence, or other acts of violence (hereinafter “*sexual or violence misconduct*”). Student-athletes must be completed the form by the start of the new academic year and prior to participating in any sports, practices, or competition.

B. The Executive Director of Athletics or their designee is responsible for confirming that the required forms have been submitted, reviewed, and verified.

C. A student-athlete who fails to make full and accurate disclosures may lose eligibility to participate in activities related to intercollegiate athletics and may be disciplined under the University’s Student Code of Conduct for engaging in acts of dishonesty. Additionally, if the

University determines, after due diligence review of the required forms, that a student-athlete has engaged in serious misconduct, the student-athlete could lose the eligibility to participate in activities related to intercollegiate athletics.

D. If the University determines, after due diligence review of the required forms, that a student-athlete has unresolved *sexual or violence misconduct matters*, the student-athlete could lose the eligibility to participate in activities related to intercollegiate athletics.

E. Decisions on whether to remove student from participating in intercollegiate activities will be made by a committee comprised of the Deputy Title IX Coordinator, Director of Student Conduct, and the Executive Director of Athletics or their designees.

F. The University shall establish an Athletics – Serious Misconduct Review Committee to review the Due Diligence Committee results and determine whether loss of eligibility to participate in activities related to intercollegiate athletics. The committee will be comprised of the Vice President for Student Life, the Athletics direct report, and the Title IX Coordinator. The determination of the appeal committee is final and not subject to further appeal.

G. A student-athlete's loss of eligibility to participate in activities related to intercollegiate athletics shall not affect the academic status or standing of a student at the University. However, the individual is still subject to applicable proceedings under the University policies and Student Code of Conduct implicated by the underlying facts that resulted in loss of eligibility to participate in activities related to intercollegiate athletics.

## **Definitions**

A. **Crime:** A violation of local, state, and/or federal law (also known as an offense) that has resulted in an individual having a, or adding to an existing, criminal record.

B. **Discipline:** Any final finding of or acceptance of responsibility (including an acceptance of responsibility as the result of an informal resolution).

C. **Interpersonal Violence:** As defined by the NCAA Campus Sexual Violence Policy, any violence that is predominantly caused due to the relationship between the victim and the perpetrator, including dating and domestic violence.

D. **Other Acts of Violence:** "Other Acts of Violence," as defined by the NCAA Campus Sexual Violence Policy, shall mean crimes including murder, manslaughter, aggravated assault or any assault that employs the use of a deadly weapon or causes serious bodily injury.

E. **Serious Misconduct:** An umbrella term which includes sexual violence, interpersonal violence, or other acts of violence, or other felony convictions for conduct, including but not limited to those categorized generally under the following (or other applicable terms under the relevant policies and procedures of the respective institution):

1. **Interpersonal Violence:** Violence that is predominantly caused due to the relationship between the victim and the perpetrator, including dating and domestic violence.

2. Sexual Violence<sup>1</sup>: A term used to include both forcible and nonforcible sex offenses, ranging from sexual battery to rape.

3. Other Acts of Violence: Crimes including murder, manslaughter, aggravated assault, or any assault that employs the use of a deadly weapon or causes serious bodily injury.

F. Student Athlete: Any current, incoming or transfer or continuing student who has been invited to participate or is currently participating in intercollegiate athletics for the University.

G. Transfer Student: An applicant seeking to enroll at the University, who has previously attended any college, university, vocational school, religious school and/or proprietary school since graduating from high school or secondary school.

### **Process & Due Diligence Review**

A. All student-athletes must complete the Student-Athlete Serious Misconduct Attestation Form utilizing the directions provided by the Executive Director of Athletics or designee on at least an annual basis.

B. If a current student-athlete is disciplined through a University of Scranton campus misconduct proceeding involving *sexual or violence misconduct*, the student-athlete must contact the Executive Director of Athletics for further direction in completing a new attestation form.

C. If, at any time, the University has reason to believe that a student-athlete has been disciplined through a campus misconduct proceeding involving *sexual or violence misconduct*, whether or not the student-athlete has reported the same on an Attestation, the University will take reasonable steps to gather additional information and, when warranted by the facts, initiate the due diligence and eligibility review process.

D. All transfer student-athletes, regardless of whether the student-athlete makes required disclosure, must complete the FERPA Release for all previous institutions the student-athlete attended, to allow the University to obtain information about the transfer student. The University reserves the right to require FERPA Releases to be signed for all prior institutions attended.

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<sup>1</sup> As defined by the NCAA Board of Governors Policy on Campus Sexual Violence, the term “sexual violence” includes both forcible and nonforcible sexual offenses, ranging from sexual battery to rape. “Sexual Assault is penetration of any form of vaginal, anal, or oral penetration or attempted penetration, however slight, by a penis, object, tongue, or finger without a person’s consent. This term includes incest and statutory rape. “Sexual Harassment” is unwelcome verbal or physical behavior based on a person’s sex (including sexual orientation, gender, gender expression and gender identity, including transgender status). “Stalking” is the engaging in a course of conduct, based on sex (including sexual orientation, gender, gender expression and gender identity, including transgender status), directed at a specific person that would cause a reasonable person to: (1) fear for their safety or the safety of others or (2) suffer substantial emotional distress. “Voyeurism” is unlawful surveillance or otherwise engaging in conduct that violates a person’s right to privacy in connection with their body and/or sexual activity.

- E. Associate Athletic Director and other University officials as needed, will take reasonable steps to confirm, review, and verify whether student-athletes have been disciplined through a Title IX, sexual misconduct, or student conduct proceeding, or have a criminal conviction for serious misconduct and whether the student-athletes are subject to any incomplete or pending proceedings.
- F. Student-athletes must cooperate with the University's efforts to verify information related to serious misconduct, including but not limited to prompt completion of necessary consent forms and FERPA or other releases of information required by another institution or entity to allow the University to timely obtain applicable records.
- G. The due diligence review process must be complete before a student-athlete is permitted to practice and compete.

### **Procedures**

The University will take reasonable steps to confirm the information provided by covered student-athletes in their Attestations, including confirming whether covered student-athletes have been disciplined or criminally convicted for serious misconduct. After conducting this due diligence review, the University will review the information available to determine whether any prior serious misconduct impacts a student-athlete's eligibility to participate in intercollegiate athletics ("the eligibility review") and take appropriate action.

### **Annual Attestation**

The Executive Director of Athletics or designee is responsible for:

- Reminding covered student-athletes of the annual attestation requirement;
- Informing covered student-athletes of the deadline to submit their annual Attestation;
- Ensuring that all Attestations are completed;
- Reviewing all Attestations for completion;
- Identifying any disclosures that will be subject to a due diligence review; and
- Ensuring that any covered student-athlete who has made a disclosure on the Attestation has also provided the signed FERPA Release, if applicable.

### **Transfer Student Attestation**

In addition to the above, Executive Director of Athletics or designee is responsible for:

- Ensuring that transfer student-athletes are aware of the attestation requirement and have timely access to the Attestation;
- Informing transfer student-athletes of the deadline to submit the Attestation;
- Ensure that all Attestations are completed;

- Reviewing all transfer-student Attestations for completion; and
- Ensuring that any transfer-student-athlete who has made a disclosure on the attestation form has also provided a signed FERPA release, if applicable. Transfer students must complete an Attestation prior to their participation in University athletics.

### **Due Diligence Review**

The Director of the Department of Athletics, in conjunction with the Director of Student Conduct and the Deputy Title IX Coordinator or designees, will take reasonable steps to confirm the circumstances of any serious misconduct disclosed in an Attestation. These reasonable steps may include contacting the prior institution and reviewing any records it provides, reviewing public records or other publicly available information, including, but not limited to court documents, social media, news reports or any other source that may possess information regarding the serious misconduct in question.

For transfer student-athletes, the Director of the Department of Athletics, in conjunction with the Director of Student Conduct and the Deputy Title IX Coordinator or designees, must also take reasonable steps to confirm the existence of any convictions for crimes involving serious misconduct, any disciplinary history for serious misconduct or any pending or incomplete campus misconduct proceedings against the student. If, at any time, the University has reason to believe that a student-athlete failed to disclose accurate information, the University will take reasonable steps to gather additional information from the previous institution or from the public court records.

### **Eligibility Review**

Once the due diligence review is completed, the Campus Level Review Panel will meet promptly to review the due diligence review information and make a recommendation, by majority vote, about whether the prior serious misconduct impacts the student-athlete's eligibility to participate in intercollegiate athletics at the University. The Campus Level Review Panel will be comprised of Vice President for Student Life, the Athletics direct report, and the Title IX Coordinator.

The Campus Level Review Panel may determine a) that the student-athlete may participate; b) that the student-athlete will be subject to a period of suspension from participation (to be specified in the decision); or c) that the student athlete is permanently banned from participation. The decision should also explain the reasoning for the determination. The Title IX Coordinator will promptly inform the student in writing of the Campus Level Review Panel's decision regarding eligibility. If the decision renders the student ineligible to participate or subject to a period of suspension from participation, the Executive Director of Athletics must simultaneously notify the student's coach.

### **Privacy**

Any information provided by students and gathered by the University pursuant to this Policy will be deemed private and will only be revealed to those who need to know the information in order to carry out their duties or responsibilities or as otherwise required or permitted by law. Coaches will only be notified if and when a student-athlete is deemed ineligible to participate.

## **University's Obligations Under this Policy**

a. **Records Retention** The following records must be maintained for seven years after the student's graduation or date of last attendance:

- Submitted Attestation Forms, including any supporting documentation and FERPA releases;
- the Due Diligence Review materials, including Due Diligence Review materials and the executive summary;
- the Campus Review Panel's written decision;
- the Title IX Coordinator's notification to the student;

The Title IX Coordinator is responsible for maintaining and retaining the records.

## **b. Information Sharing among NCAA Institutions**

In a manner that is consistent with federal and state law, the University is obligated to share information regarding relevant discipline information and incomplete Title IX proceedings as a result of a transfer with other NCAA member institutions when a student-athlete attempts to enroll in a new college or university.

## **c. Responsive Action**

Failure to comply with this Policy may jeopardize a student-athlete's eligibility to participate in intercollegiate athletics at the University, and may result in responsive or disciplinary action by the University including, but not limited to, revocation of admission to the University, revocation of a student-athlete's eligibility for scholarship, removal from the team and expulsion from the University.