

# University of Scranton

## Non-discrimination and Anti-harassment Policy

Executive Sponsor:  
Provost/Senior VP Academic Affairs  
Responsible Office:  
Office of Equity & Diversity  
*Review of this policy on three-year cycle.*

October 2013

## Non-discrimination and Anti-harassment Policy

**\*All forms of sexual harassment and sexual misconduct are governed by and adjudicated through the [Sexual Harassment and Sexual Misconduct Policy](#)**

### I. 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 harassment and discrimination. Harassment or discrimination based on race, color, religion, ancestry, gender, sex, pregnancy, sexual orientation, age, disabling condition, genetic information, national origin, veteran status, or any other characteristic protected by applicable law is prohibited. Retaliation against any person who reports such harassing or discriminatory behavior or files a complaint of discrimination or harassment, participates in any manner in an investigation or resolution of a report or complaint conducted by the University or an external agency, or otherwise opposes discrimination under federal and state laws, and this policy, is also prohibited.

This policy prohibits any harassing and/or discriminatory behavior while on University property, at University sponsored activities, events, and off-campus programs including but not limited to, study abroad programs, internships, student teaching, and athletic events. This policy also applies to off campus activity that has the effect of creating a hostile, intimidating, or offensive working and/or academic environment; or of interfering or limiting one's ability to participate in or benefit from an educational program or activity.

In addition to other legislation listed in Section V of this document, this policy also expressly articulates the University's compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex and gender of students and employees at educational institutions which receive federal financial assistance. In accordance with the Violence Against Women Act of 2013, this policy prohibits offenses of domestic violence, dating violence, sexual assault, and stalking.

### II. Reason for Policy

The University believes that the rights and dignity of all people must be protected, and that laws articulating these rights must be upheld. To help fulfill this commitment, one rooted in our Catholic and Jesuit academic tradition, the University is dedicated to providing a diverse, inclusive educational, residential, and working environment that is free of harassment, including sexual harassment, and discrimination.

First Draft Received Policy Office: November 2012  
UGC Review: November, December 2012  
Revised Policy Office Draft: January 2013  
Provost's Review and Feedback: January 2013  
To UGC February 19, 2013  
Draft revised September 2013 per Provost  
Draft revised October 2013 following General Counsel legal review  
Provisional Approval November 2013; To UGC November 12, 2013

### **III. Entities Affected By This Policy**

This policy applies to all University students, faculty, staff, and administrators, and to University guests, including but not limited to, visitors, volunteers, independent contractors, affiliates, vendors, consultants, and others doing business on the University campus.

### **IV. Website Address for this Policy**

This policy is available on the University's Policy web site, [www.scranton.edu/governance](http://www.scranton.edu/governance).

### **V. Related Documents, Forms, and Tools**

#### ***University Policies:***

The Student Handbook

The Student Code of Conduct

The Staff and Administrator Handbook

The Faculty Handbook

Equal Opportunity and Affirmative Action Policy for Students

Equal Opportunity and Affirmative Action Policy for Faculty and Staff

University of Scranton Records Retention Policy

*Minors on Campus Policy (in progress)*

#### ***Federal and State Laws and Regulations:***

Title VI of the Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964

Age Discrimination in Employment Act of 1967 (ADEA)

Title IX of the Education Amendments of 1972

Americans with Disabilities Act of 1990, (ADA), as amended

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)

The Rehabilitation Act of 1973

Title II of the Genetic Information Nondiscrimination Act of 2008

Pennsylvania Human Relations Act of 1955, as amended (PHRA)

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended

Violence Against Women Act of 2013

### **VI. Contacts**

For policy clarification and interpretation, contact The Office of Equity and Diversity at (570) 941-6645.

## **VII. Definitions**

**Complainant:** any individual(s) filing a complaint under this policy who is a University of Scranton employee, student, applicant for admission or employment or other participant in the University's programs or activities who believes he or she has been unlawfully discriminated against or harassed on the basis of race, color, religion, ancestry, gender, sex, pregnancy, sexual orientation, age, disabling condition, genetic information, national origin, veteran status, or any other characteristic protected by applicable law.

**Consent:** Permission, freely given by word or action, by both participants. Silence cannot be assumed to show consent.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant is dating violence. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, the frequency of interaction between the persons involved in the relationship.

**Direct Knowledge:** knowledge of an incident attained from directly witnessing that incident.

**Discrimination:** the denial or rights, privileges, programs, and activities generally provided or made available to students, faculty, and staff based on an individual's actual or perceived race, color, religion, ancestry, gender, sex, pregnancy, sexual orientation, gender identity, age, disabling condition, genetic information, national origin, veteran status, or any other characteristic protected by applicable law, that is so severe, persistent, or pervasive that it unreasonably interferes with or limits a student, faculty, or staff member's ability to participate in or benefit from the University's programs or activities. Discrimination may also occur in the granting of a preference or advantage to an individual based on that individual's actual or perceived protected status.

**Discriminatory Harassment:** unwelcome verbal or physical conduct based on race, color, religion, ancestry, gender, sex, pregnancy, sexual orientation, age, genetic information, national origin, veteran status, or disabling condition, or any other characteristic protected by applicable law when such conduct:

- a. Has the purpose or effect of unreasonably interfering with an individual's work or educational performance;
- b. Creates or has the intention of creating an intimidating, hostile, or offensive working and/or learning environment; or
- c. Interferes with or limits one's ability to participate in or benefit from an educational program or activity.

**Domestic Violence:** a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

**Faculty:** any member of the University community who teaches on a full or part-time basis.

**Indirect knowledge:** awareness of a possible incident of discriminatory harassment or discrimination, supported by credible information, attained from learning about the incident from another individual.

**Member of the University Community:** any person who is a student or a member of the faculty, staff, or administration, or any other person employed by the University.

**Protected Characteristic:** any individual characteristic of which harassment or discrimination is prohibited by law; also referred to as "protected class." These characteristics include but are not limited to: race, color, religion, ancestry, gender, sex, pregnancy, sexual orientation, age, genetic information, national origin, veteran status, or disabling condition.

**Respondent:** any individual or group of individuals accused of violating this policy, against whom a complaint has been filed.

**Retaliation:** threats, intimidation, reprisals, and/or adverse actions related to employment or education taken or threatened against a person who reports or files a complaint of discrimination or discriminatory harassment; participates in any manner in an investigation or resolution of a report or complaint conducted by the University or a government agency, or otherwise opposes discrimination under federal and state laws or this policy.

**Sexual Harassment:** Sexual harassment is a distinct form of sex discrimination which may occur in a single episode or may be a course of persistent behavior. Pursuant to Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Pennsylvania Human Relations Act, sexual harassment is defined as: Unwanted sexual or gender based behavior consisting of verbal, non-verbal or physical conduct of a sexual nature, requests for sexual favors or other nonconsensual advances when

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing in a course, program or activity; or
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions or for academic decisions affecting the individual, such as evaluation, grades, or advancement; or
- c. Such conduct has the purpose or effect of interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working and/or academic environment; or of interfering with or limiting one's ability to participate in or benefit from an educational program or activity. If sexual or gender based behavior takes place in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter being taught in order to constitute sexual harassment.

Acts of sexual violence including rape, sexual assault, sexual battery, and sexual coercion are forms of sexual harassment.

Both men and women are protected from sexual harassment and the gender of the harasser has no bearing on whether or not sexual harassment has occurred. In order to be in violation of this policy, sexual or gender based conduct must be unwanted and non-consensual. Conduct is unwanted if the individual being harassed regards the conduct as undesirable or offensive.

**Sexual Assault:** any non-consensual attempted or completed sexual intercourse (oral, anal, or vaginal) with a body part and/or object.

**Staff:** any employee of the University whose primary responsibility is not teaching.

**Stalking:** a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear.

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**Student:** any person enrolled in a course or courses at the University, either full or part-time, residing on or off-campus, pursuing undergraduate, graduate, or professional studies; a student may also be an individual who attends a post-secondary educational institution other than the University but who resides in a University residence. Persons who are not officially enrolled for a particular academic term but who have a continuing educational relationship with the University, and those who are admitted to the University but not yet matriculated are considered students. References to a student in this policy may also include groups of students, including clubs and other student organizations. A person's status as a student in any particular situation shall be determined by the Vice President for Student Affairs.

Supervisor: any employee of the University, excluding full-time faculty, having authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees or having the authority to recommend such actions.

Third Party: an individual, including a University student or employee, who observes or reports behavior thought to be in violation of this policy.

Title IX (of the Education Amendments of 1972): federal legislation which prohibits discrimination based on the sex and gender of students and employees of educational institutions which receive federal financial assistance. Title IX also protects third parties from sexual harassment or violence in educational programs and activities sponsored by such institutions.

Title IX Coordinator: the individual at the University designated as responsible for coordinating the University's compliance with Title IX of the Education Amendments of 1972.

Visitor: any individual who is not a student at or employee of the University, including persons invited by the University or by a member of the University community, including visiting faculty. The term also refers to one is present on University property as a condition of their employer's relationship with the University or a member of the University community, as well as persons who are on campus without an invitation.

## **VIII. Responsibilities**

**1. Individual Conduct:** Every University of Scranton Student has a responsibility to conduct him/herself in accordance with this policy as a condition of enrollment. Every University of Scranton employee has a responsibility to conduct him/herself in accordance with this policy as a condition of employment. Every supervisor has a responsibility to report to the University's Title IX officer complaints of harassment or discrimination that originate in area(s) under their supervision.

Conduct found to be in violation of this policy will not be tolerated. Once informed of such conduct or behavior the University will engage in investigation (either formal or informal) and resolution of the complaint. If an individual is found to be in violation of the policy, the University will take corrective action, including stopping the discriminatory and/or harassing behavior, preventing its reoccurrence, and remedying the effects of the behavior that violated this policy.

Details regarding the process for submitting complaints, and the processes for investigating and resolving complaints, are detailed in section IX (Procedures) of this policy. Members of the University community found to be in violation of this policy will face disciplinary action up to an including dismissal.

**2. University Title IX Compliance:** \*See [Sexual Harassment and Sexual Misconduct Policy](#)\* Title IX of the Education Amendments of 1972 is an all-encompassing federal law that prohibits discrimination based on sex and gender of students and employees of educational institutions which receive federal assistance. Title IX also protects third parties from sexual harassment or violence in educational programs and activities (including athletics events) sponsored by the University. The University's Title IX coordinator is responsible for coordinating the school's compliance with Title IX, including (a) receiving and investigating reports and complaints of sexual harassment in a timely manner; (b) planning and managing training and educational programs aimed at promoting compliance with the policy, including reporting procedures; (c) managing prompt and effective response to reports of sexual harassment; (d) providing to the President of the University an annual report of complaints filed, both formal and informal, and their resolution or current status; and (e) maintaining records of complaints and related resolution processes in accordance with the University's Records and Retention Policy and related laws. The Title IX Coordinator is also authorized to delegate investigative responsibilities to other trained individuals as deemed appropriate. Information regarding training and educational programs related to Title IX is available on the Office of Equity and Diversity web site.

The Title IX Compliance Coordinator for the University is:  
Name: Elizabeth M. Garcia, Executive Director  
The Office of Equity and Diversity  
Campus Address: 100 Molecular Biology Institute  
Phone Number (570) 941-6645  
E-mail [elizabeth.garcia2@scranton.edu](mailto:elizabeth.garcia2@scranton.edu)

The Deputy Title IX Coordinator for the University is:  
Name: Christine M. Black, Assistant Director  
The Office of Equity and Diversity  
Campus Address: 100 Molecular Biology Institute  
Phone Number (570) 941-6645  
E-mail [christine.black@scranton.edu](mailto:christine.black@scranton.edu)

The Deputy Title IX Coordinator for University Students is:  
Name: Ms. Lauren Rivera, Assistant Vice President and Dean of Students  
Student Life  
Campus Address: The DeNaples Student Center 201A  
Phone Number (570) 941-7680  
E-mail [lauren.rivera@scranton.edu](mailto:lauren.rivera@scranton.edu)

The Deputy Title IX Coordinator for University Employees is:  
Name: Ms. Patricia Tetreault, Vice President  
Human Resources  
Campus Address: St. Thomas Hall, Suite 100  
Phone Number (570) 941-7767  
E-mail [patricia.tetreault@scranton.edu](mailto:patricia.tetreault@scranton.edu)

## IX. Procedures

The University investigates all allegations of discrimination and discriminatory harassment, including sexual harassment, and strives to prevent further instances of such behavior by taking appropriate corrective action. All reports should be made as soon as possible after the alleged conduct occurs, preferably within thirty (30) days of the incident. Prompt reporting will enable the University to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary/corrective action. The University will, however, investigate all reports made after thirty (30) days to the greatest extent possible, taking into account the reason for the delay; the severity of the alleged conduct; the amount of time that has passed since the alleged conduct occurred; the availability of witnesses; the availability of evidence; and jurisdiction of the University over the individual(s) accused of the alleged behavior. Unreasonable delay in reporting may affect the University's ability to conduct an investigation and affect an appropriate remedy or disciplinary/corrective action. At the time a complaint is filed, the complainant will be provided with a copy of this policy, an explanation of the timeframe, procedures, options for resolution, confidentiality, and standard of proof for a finding a violation of this policy.

### Reporting Incidents of Noncompliance with or Violation of this Policy to the University

1. All complaints alleging a violation of this policy **by a member of the University community** should be filed with the Office of Equity and Diversity, with the exception of complaints involving discriminatory and harassing behavior, including sexual harassment, between students, which should be filed with the Dean of Students or Director of Student Conduct & Assessment in the Student Affairs Division. With respect to alleged violations of Title IX, Student Affairs will notify the University's Title IX Coordinator of any reports filed.

a. Any acts of sexual violence including rape, sexual assault, sexual battery, and sexual coercion, domestic violence, dating violence, or stalking, or other violent crimes or behaviors covered by Clery

Act, the Violence Against Women Act, or this policy, should be immediately reported to University of Scranton Police (570 941-7777) or Scranton Police Department (**911**).

i. In cases of sexual harassment involving sexual violence, which poses harm or danger to members of the campus community, the University must issue a timely warning to the campus community in compliance with the Clery Act. The University will only provide enough information to safeguard the campus community and will not disclose the name or other personally identifiable information of the individuals involved.

b. **Faculty, Staff, and Administration (Employees):** Complaints of discrimination and discriminatory harassment, including sex discrimination and sexual harassment involving administrators, supervisors, employees, staff, faculty, volunteers, and visitors shall be promptly reported to the University's Title IX Coordinator. Complaints of discrimination, and discriminatory harassment, or including sex discrimination and sexual harassment involving employees shall be reviewed via the procedures for preliminary and then informal or formal investigation, and corrective action. These procedures are located within the Office of Equity and Diversity.

c. **Students:** Complaints of discrimination, discriminatory harassment sex discrimination and sexual harassment, including acts of sexual violence, between students, should be promptly reported to the Dean of Students or the Director of Student Conduct & Assessment. Complaints filed with the Office of Student Affairs shall be investigated and adjudicated in accordance with the Student Judicial Process.

d. **Employee Supervisors** who are acting on a complaint reported to them alleging a violation of this policy must submit the complaint in writing to the Office of Equity and Diversity.

i. If the supervisor receives information from an individual or a third party alleging a violation of this policy, the supervisor shall take steps to confirm the accuracy of the report. If the supervisor is unsure of the appropriate course of action, the supervisor shall contact the Office of Equity and Diversity or the Office of Human Resources for guidance

ii. Complaints of discrimination, or discriminatory harassment, submitted by a supervisor involving employees (staff, faculty, and/or administrators), supervisors, visitors, guests, including visiting faculty, or any other third party, shall be reviewed via the procedures for preliminary and then informal or formal investigation. These procedures are located within the Office of Equity and Diversity.

2. **Guests, Visitors, or Third Parties:** All reported violations attributed to visitors or third parties will be investigated and sanctions will be imposed including banning of the offending individual(s) from University property or University sponsored events. In those situations when the accused is on campus as a result of their employment with a third party, their employer will be notified. The University will notify the educational institution of any student visitor accused of violating this policy.

### **3. Filing Complaints with External Agencies**

Complaints of harassment or discrimination may also be filed with the appropriate state or federal agency having jurisdiction over the subject matter. Individuals seeking to file such a complaint should familiarize themselves with filing deadlines and procedures by contacting the appropriate agency. These agencies include:

The Pennsylvania Human Relations Commission  
<http://www.phrc.state.pa.us>

The Equal Employment Opportunity Commission  
<http://www.eeoc.gov>

The Office of Civil Rights-Department of Education  
<http://www2.ed.gov>

Although not required, members of the University community who wish to file a complaint with an external government agency are encouraged to contact the Office of Equity and Diversity or Office of Student Affairs prior to filing a formal complaint in order to allow the University the opportunity to investigate allegations of discriminatory and/or harassing behavior and attempt to remedy the situation and provide disciplinary/corrective action in a timely manner.

#### **4. The University of Scranton as Complainant:**

There are instances when a member of the University community observes (has direct knowledge) or is told of (has indirect knowledge) of behavior in violation of this policy. In those situations or where the individual complainant refuses to pursue the complaint, and the seriousness of the allegation requires further action, the University shall serve as complainant. In cases involving allegations against University faculty, staff, administrators or third parties, the Director of OED will request the President of the University or his designee to appoint a person to serve as the complainant for the University. Likewise, in cases involving students harassing or discriminating against other students, the Vice President for Student Affairs will appoint a person to serve as complainant for the University in accordance with the Student Handbook. Should the President or a member of the Board of Trustees be alleged to be in violation of this policy, the Office of Equity and Diversity will request the University's General Counsel to engage independent legal counsel to investigate the allegation.

#### **5. Confidentiality**

The University has an obligation to investigate and resolve any and all reports of discriminatory and/or harassing behavior. Persons responsible for investigating and resolving reports will make all reasonable efforts to protect the confidentiality and privacy of the complainant, respondent, and any witnesses. Disclosure of information related to the complaint, investigation, and resolution will be made only to persons with need for information, or as required by law. Should the individual reporting such behavior request that his/her name not be disclosed to the person against whom the complaint is filed, or that no action be taken, the University shall evaluate the request in relation to its responsibility to provide a learning and working environment free from such prohibited behavior. Requests for confidentiality will be considered to the greatest extent possible, provided such request does not preclude the University from effectively responding to the complaint and taking appropriate corrective and preventive action. However, disclosure of the allegations to the accused and to those within the University administration with a need to know may be necessary to ensure a thorough, fair and impartial investigation as well as to confirm if a pattern of discriminatory or harassing behavior attributed to the accused may exist. In cases of sexual harassment involving sexual violence, which pose a potential harm or danger to members of the campus community, the University must issue a timely warning to the campus community in compliance with the Clery Act, (20 U.S.C. § 1092). In these cases, the University will only provide enough information to safeguard the campus community and will not disclose the name or other personally identifiable information of the individuals involved.

#### **6. Records and Files**

The results of complaint, investigation, and resolution processes, if sanctions are imposed, will be placed in the individual's file. In the case of staff, this will be their official personnel file; in the case of faculty, this will be their disciplinary file. In the case of students, this will be their official student record. If no sanctions are imposed, a record of the complaint and disposition will be kept in the confidential files of the Office of Equity and Diversity in accordance with the University of Scranton Records and Retention Policy. Student-to-student discrimination and harassment records will likewise be kept on file for one year (12 months) following the graduation date of both parties. If the complainant agrees that harassment or discrimination has not taken place, the complaint will be withdrawn and no record kept.

#### **7. Knowingly False or Malicious Complaints**



If, after or during the course of the investigation of any complaint of harassment or discrimination, it is discovered that the complaint was knowingly false or filed with malicious intent, the complainant may be subject to disciplinary action.

### **8. Retaliation**

Retaliation against anyone reporting or thought to have reported harassing or discriminatory behaviors or who has participated in a University or external investigative process in relation to such a report is strictly prohibited. Such retaliation shall be considered a violation of this policy, independent of whether a formal or informal complaint of harassment or discrimination has been substantiated.

### **X. Appendices**

Appendix A: Statement of Consensual Relationships<sup>1</sup>

Appendix B: Statement on Academic Freedom

Appendix C: Rights of Respondent and Complainant

Appendix D: Examples of Sexual Harassment

Appendix E: Interim Procedures

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1. Please note that the original format of this provisionally approved policy included as Appendix A a set of procedures for the intake, investigation, and resolution options for alleged violation of this policy. This set of procedures has been suspended as of 3/4/2014; current procedures are listed below in Appendix E. For questions contact Elizabeth Garcia, Executive Director, the Office of Equity and Diversity. This change was approved by the President and Provost, with the endorsement of the University Governance Council in advance of implementation.

## **Appendix A: Statement on Consensual Relationships with Respect to the University's Nondiscrimination and Anti-harassment Policy**

Because the relationship between student and teacher and supervisor and employee are central to the mission of the University and to the sense of community, even an apparently consensual sexual relationship may lead to sexual harassment or other breaches of professional obligations. These situations often create a conflict of interest and can easily lead to abuse of power. In addition, such relationships carry the appearance of bias or preferential treatment. Of greatest concern are those romantic and/or sexual relationships between teacher and student and between supervisor and employee. This includes but is not limited to any teacher, graduate student, administrator, coach, program director, advisor, counselor, or residence-life staff member who has supervisory responsibility for students or employees. Romantic and/or sexual relationships that might be acceptable in other circumstances always pose inherent risks that they will result in sexual harassment when they occur between members of the University community where a significant power or status differential between the parties exists. Voluntary consent by a student or a subordinate in a dating relationship, even if present, is always suspect, given the fundamentally asymmetrical nature of status and power. This is true even when the parties are not in a direct supervisory/subordinate situation. Professionalism is threatened by any relationship where one party has professional responsibility for the other; such relationships place, or seem to place, the person with the power or status advantage in a position to favor or advance the other party's interests at the expense of others and implicitly make, or seem to make, obtaining benefits contingent on amorous or sexual favors. Professionalism within the University demands that those with authority not abuse, nor seem to abuse, the power with which they are entrusted.

The University prohibits all faculty and staff, including graduate assistants, from pursuing or engaging in dating or sexual relationships with students and co-workers whom they are currently supervising or teaching.

Anyone involved in or who commences a dating or sexual relationship with someone over whom he or she has supervisory power (employment or academic) must immediately disclose the existence of the relationship to his/her immediate supervisor. Anyone involved in or who commences a dating or sexual relationship with someone over whom he or she has supervisory power (employment or academic) cannot participate in any decisions that affect the compensation, evaluation, employment conditions, instruction, and/or the academic status of the subordinate involved.

## **Appendix B: Statement on Academic Freedom with Respect to The University's Nondiscrimination and Anti-Harassment Policy**

In recognition and support of academic freedom for faculty in the pursuit of teaching, in accordance with paragraph 5.3 of the Faculty Handbook, academic freedom and freedom shall be considered in investigating and reviewing complaints and reports of discrimination and/or harassment. However, academic freedom will not excuse behavior that constitutes a violation of the law or this policy, when that behavior is reasonably regarded as offensive and substantially impedes a student's ability to learn, or otherwise impairs the academic or work opportunity of students, or of colleagues or co-workers.

## **Appendix C: Rights of Complainants and Respondents**

The law requires that complainants and respondents be treated equally. Any complainant alleging a violation of this policy, and any individual who is accused of violating this policy has the following rights during conduct proceedings conducted by the University. These rights are further articulated in the procedures section of this document. These rights mirror those found in the Student Code of Conduct.

1. The right to be informed of and to have access to available University resources (i.e., Counseling Center, University Ministries);
2. The right to be presumed not responsible for violating the policy;
3. The right to an explanation of the allegation(s);
4. The right not to be harassed by the complainant, the complainant's acquaintances, or supporters of the complainant;
5. The right to an explanation of the University's formal and informal process pursuant to this policy;
6. The right to have an advisor who can assist the respondent throughout the investigatory and hearing process;
7. The right to a hearing without unnecessary delay once the investigation is completed;
8. The right to testify on her/his own behalf;
9. The right to present witnesses who can speak to the charges. Character witnesses are *not* allowed;
10. The right to remain present during the entire formal hearing, if any, with the exception of the deliberation phase when neither the respondent nor the complainant may be present;
11. The right to be informed of the outcome of the hearing within 72 hours;
12. The right to appeal the outcome of a hearing;
13. In the case of faculty respondent, to have a FAC officer present at any meeting or hearing at which sanctions are or could be imposed. The role of the FAC officer is that of an advisor in accordance with paragraph 5 (Advisor) above.

## **Appendix D: Examples of Sexual Harassment**

Examples of Sexual Harassment include:

- Making sexual propositions or pressuring students or employees for sexual favors;
- Conditioning employment or academic decisions on the performance of sexual favors;
- Remarks of a sexual nature about dress or physical appearance;
- Sexually suggestive or degrading jokes or comments;
- Performing sexual gestures or touching oneself sexually in front of others;
- Discussions of personal sexual exploits;
- Inappropriate physical contact including inappropriate/unnecessary touching or rubbing against another,
- Displaying or distributing sexually suggestive pictures, drawings, or written materials which serve no legitimate purpose;
- Degrading or insulting remarks based on one's gender;
- Circulating or showing e-mails or websites of a sexual nature;
- Harassing behavior of a sexual nature using telephonic or electronic means;
- Acts of sexual violence including rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment.

## **Appendix E: Interim Procedures for Investigation of Complaints under the Non-discrimination and Anti-harassment Policy**

### Intake Process

- During the intake process the Director of Equity and Diversity (the "Director") will meet with the Complainant to discuss the allegations and request that the complaint be put in writing. If the Complainant declines to submit a written complaint, the Director will prepare a "summary complaint" document based upon the initial meeting with Complainant.
- The Director will make a preliminary determination based on the complaint and supporting documents (if submitted) whether the allegations in the complaint, if sustained, would violate the Non-discrimination and Anti-Harassment Policy (the "Policy"). If the complaint is not appropriate for processing through the Office of Equity and Diversity ("OED"), the Director will inform the Complainant of other University resources (e.g. Human Resources, Provost, Student Affairs, supervisory chain of command) that could be of assistance and then close the file. If the complaint is appropriate for processing through OED, the Director will explain the Investigation process to the Complainant.
- Within five days of receiving a written complaint or preparing a summary complaint, the Director will inform the Respondent that a complaint has been filed, the general nature of the complaint, and the name of the complainant. Also informed in writing are:
  - Respondent's supervisor and governing vice president, if the Respondent is a member of the staff or administration
  - Dean and Provost if the Respondent is a faculty member (and also the Faculty Affairs Council Chair if Respondent is a full-time faculty member)
  - Dean of Students, if the Respondent is a student
- When a student is the respondent, complaints will be processed under the Student Code of Conduct found in the Scranton Student Handbook, Article III.

- Director will meet with the Respondent and invite him/her to submit a written response to the Complaint. Director will explain the Investigation process to the Respondent. Respondent will be given the opportunity to review the written complaint or summary complaint in OED and to take notes.
- At any time after a complaint has been filed, and before final disposition of the dispute, the Director may authorize interim administrative action to protect the best interests of the parties to the complaint and the University.
- The Director will inform the parties and any witnesses that retaliation against any person who makes a complaint of discrimination or harassment or participates in an investigation is a separate violation of the Policy and will not be tolerated.

#### Investigation

- The Director or his/her designee will conduct a prompt, thorough, and impartial investigation to determine if a violation of the Policy occurred. The role of the investigator is as an objective, neutral fact finder and not as an advocate for either party. The investigation includes interviewing the parties and relevant witnesses, and reviewing written statements, documents, records, and other communications.

#### Determination

- The investigator will prepare a report at the conclusion of the investigation within 60 days from the date the investigator receives the written complaint (or as soon as feasible when extensions are necessary to ensure a thorough investigation).
- The investigator's report will contain (1) the Complainant's allegations or a summary of any other suspected violations; (2) the Respondent's replies 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) findings of fact; (6) credibility determinations and (7) the investigator's determination of whether the policy has been violated based upon a "preponderance of the evidence". The report will be provided to the Provost if the Respondent is a faculty member, or the supervising Vice President if the Respondent is a staff member.
- The Director shall provide a "Summary Report" containing a short statement of findings of fact and determination to the Complainant and the Respondent.

The Provost or Supervising Vice President will determine whether/what corrective action is appropriate consistent with Pennsylvania and Federal law and University Policy. Corrective action will be reasonably calculated to make the harassing behavior stop and/or to remedy the effects of discriminatory conduct.