

POINT PARK UNIVERSITY

ADMIN 001

Policy Prohibiting Sexual Misconduct, Relationship Violence and Stalking

Policy Statement & Purpose

Point Park University prohibits all forms of discrimination based on sex or gender, including sexual misconduct, sexual harassment, sexual assault, domestic violence, dating violence, and stalking (collectively, “Sexual Misconduct”). Sexual Misconduct is inconsistent with the University’s values and will not be tolerated. Title IX of the Education Amendments of 1972 (“Title IX”) prohibits all forms of sex based discrimination, including sexual harassment, sexual violence, and other forms of sexual misconduct. The Violence Against Women Reauthorization Act (“VAWA”) of 2013 includes additional requirements about how colleges and universities must respond to and address certain acts of violence, including sexual assault, domestic violence, dating violence, and stalking. Point Park complies with Title IX and VAWA and is committed to providing an educational and employment environment that is free of all forms of sex discrimination and sexual violence. All members of the Point Park community share in the responsibility to maintain the University’s environment that supports the safety and dignity of each member of the community.

Scope of Policy

This policy applies to conduct committed by students, faculty, (union and non-union) employees, administrators, volunteers, independent contractors, and visitors. This policy prohibits Sexual Misconduct towards University community members of any sex, gender identity, gender expression, or sexual orientation.

Policy Prohibitions

A. Prohibition of Sexual Misconduct

This policy prohibits sexual misconduct, that takes place on the campus, at University-sponsored events and to off-campus and online conduct when the Title IX Coordinator or Deputy Title IX Coordinator determines that the off-campus and/or online conduct could

have an on-campus impact or an impact on the educational mission of the University, including:

- a. Any action that constitutes criminal offense as defined by federal or Pennsylvania state law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
- b. Any situation where it appears that the accused individual may present a danger or threat to the health or safety of self or others;
- c. Any action that creates or could create a hostile environment on campus;
- d. Any situation that significantly impinges upon the rights, property or achievements of others or significantly breaches the peace and/or causes social disorder;
- e. Any situation that is detrimental to the educational interests of Point Park University or members of the Point Park community; and/or
- f. Off-campus discriminatory or harassing speech by employees when such speech is made in an employee's official or work-related capacity.

B. Prohibition of Gender-Based Harassment

This policy prohibits unwelcome conduct that is nonsexual in nature and based upon a person's actual or perceived sex, gender identity, gender expression, or nonconformity with gender stereotypes.

C. Prohibition of Retaliation

The University does not tolerate retaliation and will pursue actions against those who take retaliatory measures against reporting individuals or witnesses.

D. Prohibited Consensual Relationships

No employee shall enter into a consensual romantic and/or sexual relationship with any student, whether the relationship is long-term or short-term or deemed serious or casual.

Employees may not accept authority over a student with whom they have had a previous consensual romantic and/or sexual relationship without first disclosing the relationship and obtaining prior agreement from their supervisor. Situations of authority can exist, but are not limited to, a student taking a course taught by the employee, a student who is the advisee of the employee, or a student in an employment position or Graduate Assistantship with the employee.

In such instances, the employee and student must disclose the prior relationship to the employee's supervisor and obtain approval for the authoritative situation. *Written notice of this approval must be provided to the Provost and Vice President of Human Resources by the appropriate supervisor.*

Determination of whether an individual is considered an "employee" or a "student" will be based upon the person's primary role at the University. For example, a full-time employee who is taking a course would be considered an employee for purposes of this prohibition, and a full-time student who is a part-time employee would be considered a student for purposes of this prohibition.

Examples of Prohibited Relationships

The following examples are intended for illustrative purposes only. This is not, and is not meant to be, an exhaustive list of instances where this policy applies.

- Professor A in Department Z and undergraduate Student B in Department Y meet at a social event sponsored by the University. This policy prohibits a romantic or sexual relationship between the two parties until either Professor A is no longer an employee at Point Park or Student B is no longer enrolled as a student at Point Park University.
- A romantic relationship develops between Assistant Coach A and graduate Athlete B. This relationship is prohibited by this policy because an instructive relationship exists between the parties. Assistant Coach A is required to disclose the relationship to his or her supervisor and terminate all instruction and supervision of graduate Athlete B.

Exceptions to the Prohibition of Consensual Relationships

1. In some instances, exceptions to prohibited consensual relationships may exist or be created. This prohibition will not apply to situations of "Pre-Existing Relationships." A "Pre-Existing Relationship" is a Relationship between an employee and a Point Park student that existed (a) before the student enrolled at Point Park or (b) before the employee became employed by Point Park. Pre-Existing Relationships must be disclosed promptly to the Vice President of Human Resources and to the Provost. In these situations, employees should review the University's Nepotism Policy (Section 1.12) to avoid conflicts with University policy.

2. Consensual relationships between graduate students and undergraduate students are not prohibited by this policy. However, graduate students who become employed by the University, such as through a teaching role or as a Graduate Assistant, must take measures to avoid or terminate any instructive or supervisory roles with undergraduate students where a relationship exists or develops.

3. Undergraduate students who also hold student-only employment positions at Point Park are excluded from this policy. Some examples of these excluded positions are Resident Educators, Office Assistants, and Apprenticeships.

The University reserves the right to intervene if any relationship between an employee and a student has the potential to compromise the University's academic or professional integrity. Any questions about the applicability of this Policy to a particular relationship should be addressed to the Title IX Coordinator, Provost, or the Vice President for Human Resources.

Definitions¹

Complainant—the person(s) alleged to have been subjected to conduct in violation of this policy. The University reserves the right to act as the Complainant in a case where an individual is unwilling or unable to pursue a report of misconduct.

Respondent—the person(s) accused of conduct that might be in violation of this policy.

Reporter—the person(s) reporting alleged conduct prohibited by this policy. The Reporter may be the Complainant or any other person (but not a responsible employee).

Sexual Misconduct is a broad term encompassing sexual harassment, sexual assault, and any other non-consensual behavior of a sexual nature that is committed by force or intimidation, or that is otherwise unwelcome. Sexual misconduct may vary in its severity and consists of a range of behavior or attempted behavior.

Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. It can also occur between members of the same or different sex and can occur while individuals are fully clothed.

Sexual Assault is non-consensual sexual contact or non-consensual sexual intercourse (as defined below). Sexual assault includes sexual contact or sexual intercourse achieved by the use or threat of force or violence, coercion or intimidation, without consent, or where an individual is incapacitated.

- i. **Non-consensual sexual contact** is any sexual touching, however slight, with any part of a person or an object, by any person upon another without consent (as defined below), or by forcing any person to touch you or his/herself in a sexual manner. Non-consensual contact includes improper touching of intimate body parts, non-consensual removal of another's clothing, indecent contact (i.e. the unwanted touching of intimate body parts including, but not limited to, genitals, buttocks, groin, or breasts), or causing another to have indecent contact with those intimate body parts.

¹ See Appendix A for Pennsylvania Crimes Code Definitions of Rape, Rape of a Child, Statutory Sexual Assault, Involuntary Deviate Sexual Intercourse, Sexual Assault, Aggravated Indecent Assault, Indecent Assault, and Incest; Appendix B for Pennsylvania's Standard for Probable Cause; and Appendix C for Pennsylvania Crimes Code Definition of Stalking.

- ii. **Non-consensual sexual intercourse** is any sexual intercourse by any person upon another without consent (as defined below). It includes oral, anal and vaginal penetration, to any degree, with any part of the body or any object. Non-consensual intercourse may be accomplished by expressly or implicitly forcing or coercing another person to have intercourse against that person's will, including the use or threat of physical force, or any behavior that is designed to intimidate and induce fear in another person. Non-consensual sexual intercourse can also occur when another person is incapable of denying or giving consent.

Sexual Harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic or physical conduct of a sexual or gender-based nature, when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (i.e. quid pro quo); or (2) such conduct creates a hostile environment (defined below). Sexual harassment may be found in a single episode, as well as in persistent behavior.

Sexual harassment is a matter of particular concern to an academic community in which students, faculty and staff are related by strong bonds of intellectual dependence and trust.

Hostile Environment Unwelcome verbal or physical conduct of a sexual nature creates a hostile environment when it (1) is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from an education program or creates a hostile or abusive educational environment; or (2) explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive environment.

In determining whether harassment has created a hostile environment, consideration will be given not only to whether the conduct was unwelcome to the person who feels harassed, but also to whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive.

Domestic Violence is a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the Commonwealth of Pennsylvania, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the Commonwealth of Pennsylvania.

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement, taking into consideration of the following factors:

- (i) The length of the relationship;
- (ii) The type of relationship; and
- (iii) The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence, for purposes of this policy, does not include emotional abuse.

Relationship Violence includes domestic violence and dating violence (as those terms are defined above).

Sexual Exploitation involves:

1. electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without the knowledge and consent of all parties involved;
2. voyeurism (spying on others who are in intimate or sexual situations); or
3. distributing intimate or sexual information about another person without that person's consent.

Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to—

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial emotional distress.

One engages in an impermissible course of conduct if one engages in two or more acts that include, but are not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person in a way prohibited as described above or interferes with a person's property.

Retaliation is action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action

taken against a bystander who intervened to stop or attempted to stop sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

Sexual Intimidation is sexual misconduct that occurs when a person takes unjust or abusive sexual advantage of another for his or her own advantage or benefit or for the benefit or advantage of anyone other than the exploited party; and that behavior does not otherwise constitute sexual assault.

Consent is knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the individual accused of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

In Pennsylvania, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old is a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

Incapacitation is the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, asleep, unconscious, or unaware that

sexual activity is occurring. Incapacity may result from mental disability, involuntary physical restraint and/or from the use of alcohol or drugs. Intoxication is not necessarily the same thing as incapacitation, unless one is so intoxicated as to be incapacitated. Incapacitation of the alleged perpetrator does not excuse otherwise prohibited conduct.

Student is any person enrolled in a course, including on-line and hybrid courses, at Point Park University at the time of the alleged incident and/or the time the report of the alleged incident is made.

Employee is anyone currently employed by Point Park University as faculty or staff, full-time or part-time. Individuals currently on sabbatical, leaves of absence, serving in visiting posts, or who work from a remote location are considered employees.

Responsible Employee is any administrator, faculty, or staff member employed by the University who has not otherwise been specifically identified as confidential reporting locations.

Consensual Relationship is any romantic, dating or sexual relationship between a student and an employee that is willingly undertaken by the parties. This includes relationships that occur only once, intermittent relationships, and/or relationships based on-line.

Investigator is a person appointed by the Title IX Coordinator to conduct a fact-finding investigation into a report of possible violation of this policy. Investigators receive annual training on the University's policy and best-practices for conducting investigations which may involve sexual misconduct, relationship violence or stalking.

Deputy Title IX Coordinator is an administrator appointed by the Title IX Coordinator to review and determine the outcome of cases under this policy. The Deputy Title IX Coordinator also determines any sanctions or remedies to be imposed on the parties for each case, where applicable. Each Deputy Title IX Coordinator receives annual training on the University's policy and best practices for adjudicating cases which may involve sexual misconduct, relationship violence or stalking.

Unwelcome Conduct occurs when the target of the conduct did not request or invite it and considered the conduct to be undesirable or offensive. Unwelcome Conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phone or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome Conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome Conduct can involve persons of the same or opposite sex. Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that an individual may have welcomed some conduct does not necessarily mean that the individual welcomed other conduct. Also, the fact that an individual requested or invited

conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

Options for Assistance

FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

Any Point Park student, faculty, or staff member who has experienced or who is aware of conduct that constitutes sexual misconduct, relationship violence, or stalking is strongly encouraged to **seek immediate medical assistance, to call 911 or the University's Police Department at 412.392.3960, and to preserve pertinent information and tangible materials, such as text messages, photos and clothing.**

To report any non-emergency sexual misconduct, please contact Elizabeth Rosemeyer, Title IX Coordinator, at 412.392.3980, erosemeyer@pointpark.edu, or 201 Wood Street, 800 Academic Hall, Pittsburgh, PA 15222. Reports may also be made to a Deputy Title IX Coordinator, Student Life staff, faculty member, or any other University official.

A. On-line reports

On-line reports may be submitted, anonymously if so desired, at www.pointpark.edu/incidentreport.

B. Emergency Contact Information

In the event of a sexual assault or relationship violence, visiting a hospital emergency room will ensure treatment is provided for possible injuries, pregnancy, or sexually transmitted disease. Additionally, a Sexual Assault Nurse Examiner (SANE) can obtain forensic evidence of an assault up to ten days after the incident. This can be important if legal options are pursued later, including obtaining a protection order. There is a limited window of time (up to 10 days) following an incident of sexual assault to preserve physical and other forms of evidence. Taking the step to gather evidence immediately does not commit an individual to any course of action. The decision to seek medical attention and to gather any evidence will remain confidential and will preserve the full range of options to seek resolution through the University's complaint processes and/or criminal action. Additionally, in Pennsylvania, an individual can submit to a medical exam anonymously.

University staff can assist in obtaining medical or mental health care, and notifying law enforcement in the proper jurisdiction if the complainant desires. Also, Pittsburgh Action Against Rape will be notified of all reported assaults so that trained crisis counselors can accompany a victim to the hospital 24 hours a day, if the complainant desires. The University will work with the complainant and law enforcement to implement any needed protective measures including No Contact Orders issued by the University and/or lawful orders issued by

criminal, civil, or tribal court.

Complainants have the right to decline notification to law enforcement. This choice does not remove availability of any medical treatment and assistance from the University.

EMERGENCY RESPONSE	MEDICAL CARE	COUNSELING
Point Park Police Contact any Police Officer or call 412.392.3960	Student Health Center 203 Thayer Hall 412.392.3800	Student Counseling Center 5 th floor, Lawrence Hall 412.392.3959 (during normal University office hours)
Pittsburgh Police Department Call 911	Magee-Womens Hospital 412.641.4933	Pittsburgh Action Against Rape (PAAR) 1.866.END.RAPE (363.7273) www.paar.net
	UPMC Mercy Hospital 412.232.8222	Women’s Center and Shelter of Greater Pittsburgh 412.687.8005 www.wcspittsburgh.org
		Persad Center 1.888.873.7723 www.persadcenter.org

C. Confidential Reporting and Resources

The University encourages individuals who experience any form of sexual misconduct, to talk to someone about what happened—so they can get the support they need, and so the University can respond appropriately. Different employees on campus have different abilities to maintain a victim’s confidentiality. Please review the information below to find the resource with which you are most comfortable. All resources below are free to enrolled students.

1. Completely Confidential Reporting Location

Resources in this category are required by law and professional ethics standards to maintain complete confidentiality, except in extreme circumstances. Unless a professional licensed counselor believes there is an imminent threat, those licensed

counselors who provide mental-health counseling to members of the University community will not report any information about an incident to the Title IX Coordinator without first obtaining the victim's permission.

Students may obtain these services on campus from:

Student Counseling Center
5th floor, Lawrence Hall
412.392.3959

2. Mostly Confidential Reporting Location

Resources in this category will keep reports as confidential as possible, but are required to share de-identified information with a Title IX Coordinator. Specifically, resources in this category must report to the Title IX Coordinator the nature, location, time, date, and other general information regarding the reported incident, but will not report the identity of the parties involved.

Students may obtain these services on campus from:

Student Health Center
2nd Floor, Thayer Hall
412.392.3800
hcapo@pointpark.edu

3. Off-Campus Resources

The following are off-campus resources. While off-campus counselors and advocates may maintain confidentiality vis-à-vis the University, they may have reporting or other obligations under state or federal law. You should inquire of each as to the level of confidentiality they can provide.

Students and all employees may obtain services off-campus from:

Pittsburgh Action Against Rape (PAAR)
24 Hour Hotline: 1.866.END. RAPE (363-7273)
www.paar.net

Center for Victims
24 Hour Crisis Hotline: 1.866.644.2882
www.centerforvictims.org

Women's Center and Shelter of Greater Pittsburgh
412.687.8005

www.wcpittsburgh.org

Persad

1.888.873.7723

www.persadcenter.org

4. Exceptions to Confidentiality

In some instances, confidential resources will be required by state law to report certain information. In Pennsylvania, incidents involving minors must be reported to Childline at (800) 932-0313. Additionally, if information indicates the safety of the victim or other campus members is in jeopardy, the resource may be required to break confidentiality. Finally, in rare instances, there may be occasion where a resource is required to testify in a criminal proceeding.

Timely Warnings

The University is required to give a timely warning of any alleged perpetrators who commit a crime on or adjacent to campus and pose a serious and immediate threat to the campus community. In such an event, the Point Park University Police Department will issue a warning through its PointALERT system after consultation with University Administration as reasonable under the circumstances.

5. Anonymous Reporting

A reporter may report sexual misconduct anonymously through the University's Title IX web page. A link can be found at: www.pointpark.edu/incidentreport

6. Private Reporting

Unlike confidential resources, most staff, including athletic coaches, and all faculty at Point Park University are considered "Responsible Employees" and are required to report incidents of sexual misconduct to the Title IX Coordinator. This report to the Title IX Coordinator should include any relevant details about the alleged sexual misconduct and will trigger the University's investigation process. Information in the Responsible Employee's Incident Report will be shared with only those people necessary to carry out a thorough, reliable and impartial investigation. Personally identifiable information will not be shared with law enforcement without the Complainant's consent.

When a Complainant (or third party reporter) tells a Responsible Employee about an incident of sexual misconduct the Complainant has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

If a Complainant begins to share information with a responsible employee, the employee should clarify to the Complainant that the employee is obligated to report the information to the Title IX Coordinator. If the Complainant would like to maintain confidentiality, the

Responsible Employee should direct the victim to confidential resources, such as the Student Counseling Center or Pittsburgh Action Against Rape. Employees should not pressure Complainants to seek confidential resources or, conversely, pressure Complainants to fully disclose information before the Complainant is ready. Essentially, employees should identify their reporting obligations to the Complainant and then listen to the Complainant's information.

In cases where a Complainant would like to maintain confidentiality, but wants to share information about an incident with the employee, then the employee should communicate the desire for confidentiality to the Title IX Coordinator. The University will honor this request to the extent possible.

7. University Response to Requests for Confidentiality

Whenever possible and to the greatest extent possible, the University will honor requests for confidentiality and do its best to maintain the privacy of all reporters and Complainants (if different).

In cases where a reporter discloses an incident to a Responsible Employee but that reporter, or the Complainant, if different, expresses a desire to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that desire and request against its obligation to provide a safe, non-discriminatory environment for all students, including the reporter and Complainant.

If the University honors the request for confidentiality, a reporter and Complainant must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the University may not be able to honor a reporter or Complainant's request in order to provide a safe, non-discriminatory environment for all students. In this instance, the following individual(s) may evaluate the request for confidentiality:

- Elizabeth Rosemeyer, Title IX Coordinator
- Lisa Stefanko, Vice President of Human Resources and Deputy Title IX Coordinator
- James Thomas, Associate Provost and Deputy Title IX Coordinator
- Jeff Besong, Chief of Police and Assistant Vice President of Public Safety
- Michael Gieseke, Dean of Student Life

When evaluating a reporter or Complainant's request for confidentiality or that no investigation or discipline be pursued, the University will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
 - o whether there have been other sexual violence complaints about the same alleged perpetrator;
 - o whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
 - o whether the alleged perpetrator threatened further sexual violence or other violence against the Complainant or others;
 - o whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the Complainant is a minor;
- whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the reporter's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular individual or group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University will likely respect the request for confidentiality.

In the event the University determines that it cannot maintain a reporter or Complainant's confidentiality, the University will inform the reporter or Complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the investigation and resolution response.

The University will work diligently to assist the Complainant, and will take ongoing steps to protect the reporter and Complainant (if different from the reporter) from retaliation or harm. Retaliation against the reporter and/or Complainant, whether by students or University employees, will not be tolerated. Further, the University will not require a reporter/Complainant to participate in any investigation or disciplinary proceeding.

REPORTING POLICIES AND PROTOCOLS

A. Direct Reporting Options

A reporter may report sexual misconduct by instituting either a criminal process and/or an institutional process. The criminal process begins by calling the local police department or University police department. The institutional process may be instituted by calling

Elizabeth Rosemeyer, Title IX Coordinator at 412.392.3980 or at 201 Wood Street, 800 Academic Hall, Pittsburgh, PA 15222, contacting any Deputy Title IX Coordinator, Responsible Employee, or by completing an Incident Report, which may be submitted anonymously if desired, located on the University website at www.pointpark.edu/incidentreport.

B. Indirect Reporting

Any University official who receives notice of a violation of this policy and is not listed as a confidential resource elsewhere in this policy is obligated to report that violation to the Title IX Coordinator or any Deputy Title IX Coordinator.

C. Protecting Complainants, Reporters and Witnesses

1. Retaliation

The University does not tolerate retaliation and will pursue actions against those who take retaliatory measures against reporting individuals or witnesses. When an individual reports sexual misconduct to any campus resource, that resource will work with the Title IX Coordinator or the appropriate Deputy Title IX Coordinator to ensure that the Complainant and reporter are protected from further misconduct and from retaliation for making the report. The Title IX Coordinator or her/his designee will consult with the Complainant regarding protective measures such as changes to University housing and/or academic schedules, changing office locations, removing the reporting individual's information from the Campus directory, and/or issuing a "no contact order." Protective measures applicable to students will be enforced under the Student Code of Conduct by the Associate Vice-President of Student Affairs. Protective measures applicable to staff will be enforced by the Vice-President of Human Resources. Protective measures applicable to faculty will be enforced by the Senior Vice President for Academic and Student Affairs.

2. Amnesty

Assisting students who are reporting sexual misconduct is the University's primary interest. In order to facilitate reporting, the Vice-President of Student Affairs may choose not to charge students who report sexual misconduct and any material witnesses with Student Code of Conduct violations for behavior that would otherwise be considered violations (for example, consuming alcohol underage or consuming illegal drugs).

3. False Accusations

Deliberately false and/or malicious accusations of sexual misconduct, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious as sexual misconduct and will be subject to appropriate disciplinary action.

INVESTIGATION PROCEDURES AND PROTOCOLS

A. Assessment and Timeline

The University strives to investigate and resolve all reports of possible violations of the Policy Prohibiting Sexual Misconduct, Relationship Violence and Stalking within sixty (60) days.

Receipt of an Incident Report which includes allegations of sex or gender discrimination, including sexual misconduct, will trigger an initial Title IX/VAWA assessment. This assessment will be conducted by the Title IX Coordinator, in consultation with one or more of the following: Deputy Title IX Coordinators, Director of Student Development, Dean of Student Life, and/or Assistant Vice-President of Public Safety. The assessment will determine if any immediate risk of harm to an individual or the community exists, and will implement any necessary interim measures to address those risks, as well as whether the conduct as reported, if true, would constitute a violation of this policy.

If the initial assessment finds that it is plausible that a violation of this Policy may have occurred, and the complainant wants to pursue an investigation, the University will appoint an investigator of its choosing and initiate an investigation. The extent and depth of the investigation will depend upon such factors as the Complainant's desire to pursue disciplinary action, the risk posed to the community, and the nature of the alleged behavior. If the Complainant chooses to pursue criminal charges, the University Police Department will work with the Complainant to connect him/her with the appropriate local police department (if the reported incident occurred off campus) or community resource.

If a Complainant refuses to participate in the process, the University may determine that even so, it is appropriate to move forward with an investigation and the protocols set forth in this Policy.

B. Measures & Remedies

The University's primary goal is to ensure that any victim of sexual misconduct is safe. Regardless of whether a Complainant chooses to pursue disciplinary action, the University will take interim measures to protect the party(ies) involved and ensure that all safety, emotional, and physical well-being concerns are met, stop the discriminatory behavior, and ensure that the behavior does not reoccur.

Upon receiving a report of sexual misconduct, the University will provide the victim and all relevant parties written notification of services available to them. These services include, but are not limited to counseling, medical care, mental health care, legal assistance, victim advocacy, visa and immigration assistance, student financial aid, including information about current scholarships. Additionally, the University will notify victims of and make available to victims assistance with academic, living, transportation, working situations and on-campus protective measures. Some examples of these situations are changing class schedules, providing alternate housing arrangements, allowing withdrawal from a course without financial penalty, and/or changing a supervisor at a work study position.

These resources remain available to complainants regardless of whether the victim chooses to report the crime to campus police or law enforcement, or pursue the University's resolution process. The University will work with each complainant to ensure protective measures remain in place on an as-needed or permanent basis to prevent the reported discriminatory behavior from recurring even after the disciplinary process concludes.

Interim measures to protect the safety of the Complainant will be determined on a case-by-case basis. In making the determination, the University will consider, at a minimum, the Complainant's expressed need, the severity or pervasiveness of the allegations, the continuing effects on the Complainant, the likelihood that the Complainant will come into contact with the Respondent through daily activities, and whether any legal steps have been taken to protect the Complainant.

The University will also consider, as appropriate, whether and what interim measures and remedies should be provided or offered to the Respondent.

Student Remedies:

Some examples of immediate remedies the University may provide to a student include modifying class schedules, workplace schedules, and/or extracurricular activities; changing housing arrangements; providing counseling and academic support services; providing a Support Advocate; offering extra time to complete, re-take or withdraw from a class without academic or financial penalty; and providing escort services on campus from the campus police. If an investigation against a named Respondent occurs, the University may also initiate a no contact order, alter the housing accommodations of the Respondent; and alter the class, work or extracurricular schedule of the Respondent. Where it is deemed appropriate, the University may issue an interim suspension for a student-Respondent.

Remedies remain available to complainants for the duration of the time they are enrolled as students. The University will work with each complainant if additional remedial measures are needed or need to be altered for the complainant to continue their education.

Staff Remedies:

Some examples of immediate remedies the University may provide to a staff member include: modifying work schedule or shift, workplace department or location, supervisor or direct reports if Complainant is a supervisor; providing a Support Advocate; assisting in obtaining counseling services through the Employee Assistance Plan or otherwise; providing escort services on campus and increasing security around Complainant. If an investigation against a named Respondent occurs, the University may initiate a no-contact order, issue a *persona non grata* order to prevent a person from coming on campus, and/or alter the assigned department, work schedule or work location, or the supervisory reporting structure of the Respondent.

Remedies remain available to complainants on an as-needed basis. The University will work with each complainant if additional remedial measures are needed or need to be altered for the complainant to continue their employment.

Faculty Remedies:

Some examples of immediate remedies the University may provide to a faculty member include: modifying teaching schedule, workplace schedule, and/or extracurricular schedule; providing a Support Advocate; assisting in obtaining counseling services through the Employee Assistance Plan or otherwise; providing escort services on campus and increasing security around the Complainant. If an investigation against a named Respondent occurs, the University may initiate a no-contact order, issue a *persona non grata* order to prevent a person from coming on campus, and/or alter the class or work schedule of the Respondent.

Remedies remain available to complainants on an as-needed basis. The University will work with each complainant if additional remedial measures are needed or need to be altered for the complainant to continue their employment.

C. Investigation Process

Investigations into allegations of sexual misconduct will usually include interviews with the Complainant, Respondent, and all relevant witnesses. A thorough review of pertinent physical and documentary evidence, such as, photographs, security videos, electronic messages, including text messages, social media postings, and any other relevant resource will also occur. Complainants and Respondents will have the opportunity to present additional evidence to the investigator, and to suggest other fact witnesses that the investigator may wish to interview. Character witnesses will not be heard.

1. Advisors

In addition to the Support Advocates offered to the Complainant and Respondent, individuals may choose an advisor of their choice to accompany them during the investigative process or any related meeting that is part of the Title IX proceedings. An advisor is any individual who provides the Complainant or Respondent support, guidance, or advice. This advisor may be a parent, a community advocate, or any other person (including an attorney). The advisor's role is purely supportive; the advisor may not speak on behalf of the Complainant or Respondent or otherwise directly participate in the investigation process.

2. Time Line of Investigation

The University aims to complete investigations under this Policy within thirty (30) days. In some circumstances, an extension of this timeframe may be required. Possible conditions that would extend the time needed to complete an investigation include, but are not limited to, the complexity of the reported incident, the number of witnesses involved, related and on-going criminal investigations, school breaks and vacations or unforeseen circumstances. If a delay is necessary, the University will notify all parties of the reasons for the delay and the expected adjustment in timeframes. In all cases, the University will employ a process which balances principles of thoroughness and equity with promptness.

3. Findings of Fact Report and Opportunity to Respond

Upon completion of the investigation, the appointed investigators will submit a Findings of Fact Report to the Title IX Coordinator. The Findings of Fact Report will include the nature of the allegations reported, a summary of the information gathered from interviews, including statements by all parties, and any physical or documentary evidence reviewed. The Complainant(s) and Respondent(s) will have the opportunity to review a redacted version (to preserve the confidentiality of witnesses) of the Findings of Fact Report. Each party may provide a written response to the report within five (5) days to the Title IX Coordinator.

The Title IX Coordinator will forward the Findings of Fact Report, any response provided by the Complainant or Respondent, and all other materials to the appropriate Deputy Title IX Coordinator. All parties will be notified that the investigation is complete and provided information about next steps in the resolution process.

RESOLUTION PROCESS

Members of the Point Park community may choose an Informal or Formal Resolution process for resolving complaints. The Informal Resolution process is available only for reports of incidents where the reported behavior could **not** constitute a crime. Reports that could include crimes such as, sexual assault, dating or domestic violence, or stalking cannot be resolved informally.

A Formal Resolution process may be used for any report of behavior that may violate this policy, including reports that may involve behavior that could constitute a crime. A Formal Resolution involves a full investigation and will be adjudicated by the appropriate Deputy Title IX Coordinator. The relationship of the Respondent to the University (i.e., student, faculty or staff) will determine which Deputy Title IX Coordinator reviews the case and applies sanctions and/or remedies.

Regardless of the resolution process chosen by the complainant, the University commits to providing all parties with a prompt, fair and impartial process from the initial investigation to the final result. This includes receiving timely notice, equal opportunities to be heard, and equal opportunities to respond to the reported behavior.

A. Informal Resolution

An informal resolution is a mechanism for achieving resolution between parties without a formal investigation. This process may not be used in incidents where the reported behavior could constitute a crime, such as sexual assault, relationship violence or stalking. Complainants choosing this path of resolution do not forego access to remedies needed to continue their education. Either the party may choose to end an informal resolution and begin a formal investigation at any time prior to final determination.

Through the informal resolution process, Complainants are choosing to have their report of misconduct shared with the Respondent(s). The Title IX Coordinator will meet with the Respondent(s) to inform him or her of the reported misconduct. The Respondent(s) will have the opportunity to accept or deny responsibility for the accused misconduct. If the Respondent(s) accepts responsibility for their action, appropriate disciplinary actions will be imposed by the appropriate Deputy Title IX Coordinator.

The Complainant will be notified of the Respondents' acceptance of responsibility and that the case has been resolved. Neither the Complainant nor the Respondent may appeal from an informal resolution.

B. Formal Resolution

Once an investigation is conducted and a Findings of Fact Report of the investigation is submitted to the Title IX Coordinator, the resolution process will begin. The University

aims to complete the resolution process, including notifying all parties of the outcome of the investigation, within 30 days.

A Deputy Title IX Coordinator is responsible for reviewing the Findings of Fact Report and determining whether a violation of the University's Policy Prohibiting Sexual Misconduct, Relationship Violence and Stalking has occurred. This determination will include a full review of all relevant information and be based on a preponderance of the evidence standard (i.e., whether it is more likely than not that a violation occurred).

Upon making a decision on whether a violation has occurred, the Deputy Title IX Coordinator will issue an Outcome Letter outlining the decision made, and will also explain the imposed sanctions and remedies. This information will be provided in writing to the Complainant and the Respondent, taking into account any applicable privacy issues.

Possible sanctions that may be imposed upon a Respondent found in violation of the University's policy may include the following:

- a warning letter,
- required prevention education,
- removal from a student program,
- restrictions on access to certain University facilities, such as a residence hall,
- No Contact Order,
- restrictions on future class scheduling to avoid classes with a complainant,
- limits on employment at the University,
- suspension for one to four semesters,
- suspension for the remainder of an academic year,
- or expulsion.

The Deputy Title IX Coordinator will review the Outcome Letter with the Complainant and Respondent separately to ensure the reasoning of the decision is fully understood and to inform the Complainant and Respondent of the right to appeal. Upon request, the University will disclose results of the investigation and resolution to the next of kin, if the complainant is deceased. *Note, however, that a Complainant or Respondent who has refused to participate in the investigation process has no right to appeal.*

If it is determined that a violation of the Policy Prohibiting Sexual Misconduct, Relationship Violence and Stalking did not occur, but the reported behavior would

violate a different University policy, such as the Student Code of Conduct, the case may be referred to the appropriate office for resolution.

C. Right to Appeal

Except as noted above, both the Complainant and the Respondent have the right to appeal the decision of the Deputy Title IX Coordinator. Parties to the case are informed of their right to appeal through the University's Policy Prohibiting Sexual Misconduct, Relationship Violence, and Stalking in writing and electronically. Further, the Complainant and Respondent receive written notice of their right to appeal in their Outcome Letters which provides the determination whether the University's policy has been violated.

An appeal must be filed within ten (10) business days of the date of the Outcome Letter. An appeal may only be filed on three bases: 1) the appealing party has new information that was not included in the investigation Findings of Fact Report and could not have been provided earlier, 2) the appealing party believes the sanction was not proportionate to the offense, or 3) the appealing party believes the University did not follow its investigation and/or resolution process.

The appeal should be submitted in writing to the University Title IX Coordinator. The Title IX Coordinator will forward the appeal and all materials from the investigation to a Deputy Title IX Coordinator not involved in the original investigation or the Provost ("Appeal Officer"). The choice of the Appeal Officer is at the sole discretion of the University.

The Appeal Officer will review the Findings of Fact Report and related evidence, the decision by the Deputy Title IX Coordinator, and the information provided in the appeal documents in making a determination whether a violation occurred. Using a preponderance of the evidence standard, the Appeal Officer will issue an Outcome Letter to the appealing party detailing the decision and any applicable sanctions or remedies. Absent extenuating circumstances, the Appeal Officer will issue the Outcome Letter within fifteen (15) business days of the date the appeal is filed with the Title IX Coordinator. If any changes occur to the original decision, the non-appealing party will be made aware of the change. The decision is final with no further appeal process.

RIGHTS OF THE COMPLAINANT AND RESPONDENT

The University commits to providing a fair and equitable process for resolving complaints of sexual misconduct which includes the following:

The right to prompt investigation and appropriate resolution of all credible complaints of sexual misconduct.

The right to be treated with respect by University officials.

The right to be informed of and have access to campus resources for medical, counseling, and advisory services where indicated.

The right to be fully informed of the nature, rules and procedures of the investigation and resolution process, and to timely written notice of the alleged violations within the complaint, including the nature of the violations.

The right not to have irrelevant prior sexual history admitted as evidence in the Findings of Fact report.

The right to appeal sanction(s) imposed, in accordance with the standards for appeal established by the University's Policy Prohibiting Sexual Misconduct, Relationship Violence and Stalking.

The right to an investigation and resolution process that is closed to the public.

The right to petition that the Deputy Title IX Coordinator be removed on the basis of demonstrated bias.

The right to have complaints and appeals heard by a Deputy Title IX Coordinator, Title IX Coordinator, or other designated University official who have received annual sexual misconduct, adjudication training.

The right to be accompanied and assisted by an advisor during the investigation process. This advisor can be anyone, including an attorney provided at the Complainant's/Respondent's own cost, but the advisor may not take part directly in the interview or investigation itself, though they may communicate with the Complainant/Respondent as necessary.

The right to an outcome based solely on evidence presented during the investigation process. Such evidence shall be credible, relevant, based in fact, and without prejudice.

The right to timely written notice of the outcome and sanction(s).

PREVENTION AND AWARENESS

Point Park University believes that educating its community about sexual misconduct is the most effective way to create a learning environment free of sexual misconduct. To that end, the University employs a variety of active (e.g., interactive programs) and passive (e.g., poster campaigns) strategies to inform the community about how to prevent sexual misconduct, what to do in the event misconduct occurs, and how to keep sexual misconduct from reoccurring.

Each year the University will consider the current campus atmosphere and indicators, as well as prior instances of sexual misconduct, to design and implement a campaign or activities which address campus specific issues related to sexual misconduct. The University may utilize outside

resources for community-wide campaigns and/or secure programmatic services from local rape and trauma victim centers. Programs may focus on, but are not exclusive to, specific topics such as bystander training, the relationship between alcohol and sexual misconduct, definitions of consent, or relationship violence. Educational activities will also include information on how to report sexual misconduct, the University investigation process, and support resources available on- or off-campus to those affected by sexual misconduct.

Program implementation occurs throughout the academic year in a variety of forms for all members of the community, which includes undergraduate, graduate, and on-line students, staff, and faculty. Campus members will have multiple opportunities to participate in prevention and awareness activities through social events, on-line trainings, small-group discussions, and annual awareness events. Employees also have opportunities to participate in “Lunch and Learn” sessions where they may gain knowledge about how to respond to an individual who has experienced sexual misconduct, how to report sexual misconduct, and their rights under federal and state law to work in an environment free of sexual misconduct.

Finally, the University makes every effort to make its Policy Prohibiting Sexual Misconduct, Relationship Violence and Stalking easily accessible and available to all campus members. The policy is regularly distributed to students in the fall, and new hires for staff or faculty. It is included in the annual student planner and the Administrative and Staff Handbook and Policies Manual. It is also available on the Point Park University website at www.pointpark.edu/sexual-misconduct-policy.

TRAINING OF EMPLOYEES

The University takes its responsibility to train its staff, faculty and student-workers on the University’s Policy Prohibiting Sexual Misconduct, Relationship Violence and Stalking very seriously. The amount of training required of an individual will depend on the level of involvement an individual may have in the reporting, investigating, and resolution process of reported sexual misconduct.

All employees who interact with students, whether directly or indirectly, will receive annual training on the definition of sexual misconduct and the University’s reporting procedures for sexual misconduct.

Any employee potentially involved in investigating or adjudicating a report of sexual misconduct will receive additional training to include, at a minimum, best practices for conducting an investigation, trauma-centered sexual assault training, and training specific to the University’s reporting, investigation and resolution policies, which adhere to all legal obligations under Title IX of the Education Amendments of 1972. The University utilizes external consultants, legal counsel and local rape and trauma victim centers to bolster its training. Additionally, all investigators and adjudicators receive training related to interviewing techniques, unconscious

bias, planning an investigation and writing reports on the information gathered during an investigation. Investigators and adjudicators provide regular updates to the Title IX Coordinator to ensure timeliness of the investigation and/or resolution, and that all relevant parties or witnesses are allowed the opportunity to be heard.

TITLE IX of the Education Amendments of 1972

Title IX prohibits discrimination on the basis of sex in any federally funded education program or activity. Sexual misconduct is a form of sex discrimination and therefore violates Title IX.

Point Park University has appointed several trained individuals to oversee the implementation of all Title IX obligations, including prevention and awareness programs, training employees on their rights and duties under Title IX, investigating any reports of possible sexual misconduct, and providing resolution for all violations of Title IX.

For information about Title IX compliance, please contact the University's Title IX Coordinator, Elizabeth H. Rosemeyer at 412.392.3980, erosemeyer@pointpark.edu, or at 201 Wood Street, 800 Academic Hall, Pittsburgh, PA 15222. You may also contact any Deputy Title IX Coordinator, listed below.

Title IX Coordinator and Deputy Coordinators

The Title IX Coordinator oversees the University's overall response to sexual misconduct. The Coordinator, along with the Deputy Coordinators, can accept reports of sexual misconduct and will take actions necessary to end any reported discrimination and to prevent its recurrence. The Coordinators also serve as decision makers regarding any sanctions or remedies imposed in the event a violation of the Policy Prohibiting Sexual Misconduct, Relationship Violence, and Stalking has occurred.

Elizabeth H. Rosemeyer, Title IX Coordinator: erosemeyer@pointpark.edu;
412.392.3980; 201 Wood Street, 800 Academic Hall, Pittsburgh, PA 15222

Lisa Stefanko, Vice President of Human Resources and Deputy Title IX Coordinator
lstefanko@pointpark.edu; 412.392.4727; 100 Wood Street, 7th Floor Frontier Hall,
Pittsburgh, PA 15222

James Thomas, Associate Provost and Deputy Title IX Coordinator
jthomas@pointpark.edu; 412.392.3983; 201 Wood Street, 820 Academic Hall,
Pittsburgh, PA 12555

Inquiries regarding the application of Title IX may be made externally to:

Philadelphia Office
Office for Civil Rights

U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Main Line: (215) 656-8541
Fax: (215) 656-8605
E-Mail: ocr.philadelphia@ed.gov
[Link to Complaint form at Dept. Of Education](#)

Equal Employment Opportunity Commission (EEOC)
Contact: [EEOC contact link](#)

VIOLENCE AGAINST WOMEN ACT (VAWA)

Under VAWA, the University is required to:

1. Report domestic violence, dating violence, and stalking in addition to crimes required to be reported by all universities under the Clery Act;
2. Adopt certain student discipline procedures, such as for notifying individuals who report being subject to sexual misconduct of their rights; and
3. Adopt certain policies to address and prevent campus sexual violence, including training of students and personnel.

Appendix A

Sexual Assault under Pennsylvania Crimes Code

In addition to the definitions identified above in Section Definitions, the following definitions are applicable to this Policy. The conduct described in each definition below is prohibited by this Policy as a form of Sexual Assault.

Each definition is pulled directly from Title 18 of the Pennsylvania Crimes Code; the section number (e.g., § 3121, § 3122, etc.) is also pulled directly from the Pennsylvania Crimes Code. The pertinent definitions are:

§ 3121. Rape.

(a) Offense defined.--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.

*(c) **Rape of a child.**--A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.*

*(d) **Rape of a child with serious bodily injury.**--A person commits the offense of rape of a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.*

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=21&subsctn=0>

§ 3122.1. Statutory sexual assault.

(a) *Felony of the second degree.--Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:*

(1) *four years older but less than eight years older than the complainant;*
or

(2) *eight years older but less than 11 years older than the complainant.*

(b) *Felony of the first degree.--A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.*

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31§n=22&subsectn=1>

§ 3123. Involuntary deviate sexual intercourse.

(a) *Offense defined.--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*

(6) *(Deleted by amendment).*

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

(b) *Involuntary deviate sexual intercourse with a child.*--A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.

(c) *Involuntary deviate sexual intercourse with a child with serious bodily injury.*--A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=23&subctn=0>

§ 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.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=24&subctn=1>

§ 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.*

Link:

<http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.031..HTM>

§ 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.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=31&sctn=26&subsctn=0>

§ 4302. Incest.

(a) General rule.--Except as provided under subsection (b), a person is guilty of incest, a felony of the second degree, if that person knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood.

(b) Incest of a minor.--A person is guilty of incest of a minor, a felony of the second degree, if that person knowingly marries, cohabits with or has sexual intercourse with a complainant who is an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood and:

(1) is under the age of 13 years; or

(2) is 13 to 18 years of age and the person is four or more years older than the complainant.

(c) Relationships.--The relationships referred to in this section include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=43&sctn=2&subsctn=0>

Appendix B

Standard for Probable Cause under Pennsylvania Crimes Code

While there is no distinct definition of “Domestic Violence” under the Pennsylvania Crimes Code, it should be noted that if a criminal complaint is made to law enforcement outside of the University, the following standard of probable cause will apply. NOTE: This is being provided for informational purposes only. This standard is different from the procedures that apply to on-campus disciplinary matters, as set forth in this Policy.

§ 2711. Probable cause arrests in domestic violence cases.

(a) General rule.--A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats) or 2709.1 (relating to stalking) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term "family or household member" has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).

Link:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=18&div=0&chpt=27§n=11&subsectn=0>

Appendix C

Stalking under Pennsylvania Crimes Code

In addition to the definitions identified above in Definitions, the following definitions are applicable to this Policy. The conduct described below is prohibited by this Policy as a form of Stalking.

This definition is pulled directly from Title 18 of the Pennsylvania Crimes Code, section 2709.1.

§ 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.

(b) Venue —

(1) An offense committed under this section may be deemed to have been committed at either the place at which the communication or communications were made or at the place where the communication or communications were received.

(2) Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

(c) Grading --

(1) Except as otherwise provided for in paragraph (2), a first offense under this section shall constitute a misdemeanor of the first degree.

(2) A second or subsequent offense under this section or a first offense under subsection (a) if the person has been previously convicted of a crime of violence involving the same victim, family or household member, including, but not limited to, a violation of section 2701 (relating to simple assault), 2702 (relating to

aggravated assault), 2705 (relating to recklessly endangering another person), 2901 (relating to kidnapping), 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), an order issued under section 4954 (relating to protective orders) or an order issued under 23 Pa.C.S. § 6108 (relating to relief) shall constitute a felony of the third degree.

(d) *False reports* --A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this section commits an offense under section 4906 (relating to false reports to law enforcement authorities).

(e) *Application of section* --This section shall not apply to constitutionally protected activity.

(f) *Definitions.*--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Communicates." To convey a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

"Course of conduct." A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

"Emotional distress." A temporary or permanent state of mental anguish.

"Family or household member." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

SLink:

<http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&title=18&div=0&chpt=27&sctn=9&subctn=1>

Policy Owner: Title IX Coordinator

Effective Date: November 9, 2016

Date of Approval: November 9, 2016

Date of Publication: November 9, 2016

Revision History (and effective dates):

- June 12, 2018
- November 9, 2016
- August 2016
- August 11, 2015 – Revised Policy
- August 2014 – New Policy