

# Policy Prohibiting Sexual Harassment, Relationship Violence, and Stalking

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## Statement & Purpose

Point Park University prohibits all forms of discrimination including, sexual harassment, sexual assault, domestic violence, dating violence and stalking (collectively, “Sexual Harassment”). Sexual Harassment is inconsistent with the University’s values and will not be tolerated. Title IX of the Education Amendments of 1972 (“Title IX”) prohibits sex discrimination, including sexual harassment, sexual assault, sexual misconduct, and other forms of sexual harassment. Title VII of the Civil Rights Act of 1964, also prohibits sex or gender-based discrimination, including sexual harassment. Nothing in the policy shall be read in derogation of any individual’s legal right under Title VII of the Civil Rights Act of 1964.

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, Title VII, and VAWA and is committed to providing an educational and employment environment that is free of sex- and gender-based discrimination, sexual harassment 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. As to employees, this Policy is triggered in accordance with the University’s obligations under applicable law governing discrimination and/or harassment in employment, including but not limited to Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, The Pregnancy Discrimination Act, the Equal Pay Act, the Age Discrimination in Employment Act of 1967, the Genetic Information Nondiscrimination Act of 2008, the Rehabilitation Act of 1973, and the Pennsylvania Human Relations Act .

## Scope of Policy

This policy applies to conduct committed by students, faculty, (union and non-union) employees, administrators, volunteers, independent contractors, and visitors against a person in the United States. This policy prohibits Sexual Harassment towards University community members of any sex, gender identity, gender expression, or sexual orientation. **This policy applies to conduct committed within the University’s program or activity** (location, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs. This includes any building owned or controlled by a Student Organization that is officially recognized by the University. It also includes conduct committed by any University employee within the scope of their employment. Conduct that falls outside of an educational program or activity may be addressed under other University policies.

## University Policies

While the scope of this policy is limited to discrimination on the basis of sex including sexual harassment, the University prohibits other forms of discrimination and harassment based on race, ethnicity, religion, color, national origin, age (40 years and over), ancestry, individuals with disabilities, veteran status, height, weight, genetic information, marital status, caregiver status, or familial status through the Point Park Policy on Discrimination and Harassment, The Student Handbook, and other Human Resource policies. The University also prohibits consensual relationships between employees and students in the Policy on Consensual Relationships.

### Managing Director of Civil Rights & Title IX

Managing Director of Civil Rights & Title IX serves as Point Park University's Title IX Coordinator, and is referred to as the Title IX Coordinator throughout. The Title IX Coordinator coordinates the University's compliance with Title IX. The Title IX Coordinator will be informed of all reports or formal complaints alleging violations of this policy and will oversee the University's response and investigation to ensure compliance with Title IX and VAWA. The Title IX Coordinator and Director of Compliance and Integrity will, among other things:

- Communicate with all members of the University community regarding Title IX and VAWA, and provide information about how individuals may access reporting, resources, and supportive measures;
- Review the University's applicable policies to ensure institutional compliance with applicable federal and state laws.
- Monitor the University's administration of its own applicable policies, including this policy, related record keeping, adherence to timeframes, and other procedural requirements;
- Conduct training regarding this policy;
- The Title IX Coordinator may delegate responsibilities under this policy to designated University Personnel or external professionals with the appropriate training or experience.

### Policy Prohibitions

#### A. Prohibition of Sexual Harassment

This policy prohibits sexual harassment that is committed by a participant in connection with a University program or activity, or on property or premises owned or controlled by a University recognized student organization. This policy does not cover sexual harassment that is committed by a third party that is not a participant in a University program or activity, or sexual harassment occurring outside of the United States.

The University will determine if acts reported have an on-campus impact or an impact on the educational mission of the University and determine which University policy will address the act that is reported if it does not fall under this policy. This analysis will include:

- 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;

## B. Prohibition of Retaliation

The University does not tolerate retaliation and will pursue actions against those who take retaliatory measures against any individual engaging in the process herein pursuant to the University's Anti-Retaliation Policy.

## C. Dismissal

The University must investigate all formal allegations of sexual harassment however, if the conduct alleged in the formal complaint: *would not constitute sexual harassment as defined herein, even if proved, did not occur in the University's educational program or activity, or did not occur against a person in the United States, then the University must dismiss the formal complaint* under this policy. Such dismissal does not preclude action under another University policy. If a formal complaint is dismissed the Title IX Coordinator will promptly send written notification regarding the dismissal reasons and any additional University policies that may apply.

The University *may dismiss the formal complaint* and any allegations therein, if at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal Complainant or any allegations therein;
- The Respondent is no longer enrolled or employed by the University, or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

## Definitions<sup>1</sup>

**Complainant** is 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.

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<sup>1</sup> 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.

**Formal Complaint** is a document signed and dated by a Complainant or the Title IX Coordinator with their physical or digital signature, alleging a violation of this policy and requesting a resolution process to be used.

**Actual Knowledge** is when notice of sexual harassment or allegations of sexual harassment is provided to the Title IX Coordinator or any University official who has authority to institute corrective measures at the University.

**Reporter** is 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). Parents can be reporters however; information sharing will be limited without a Family Educational Rights and Privacy Act (FERPA) waiver.

**Report** is the notice given to the Title IX Coordinator and/or the Title IX Coordinator's designee of a potential violation of this policy. In order for a Report or complaint to become a Formal Complaint, it must be memorialized in writing by a Complainant or the Title IX Coordinator. However, reports or complaints made by means other than in writing (e.g. oral complaints) may trigger an investigation under this policy.

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

**Party or parties** are the Complainant(s) and the Respondent(s).

**Witness** is any individual who shares relevant information relating to an allegation of sexual harassment.

**Sexual Assault** any sexual act directed against another person without actual consent, including instances where the victim is incapable of giving consent because of the victim's age or the victim's temporary or permanent incapacity. Sexual assault includes non-consensual sexual intercourse, non-consensual sexual contact, and any offense that meets the definition of rape, sodomy, fondling, incest or statutory rape or sexual assault with an object as defined below. It may also include other unlawful sexual intercourse and can occur between individuals of the same or different sex.

**Rape** is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim or where the victim is incapable of giving consent.

**Sodomy** is oral or anal sexual intercourse with another person, without the, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

**Fondling** is defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

**Incest** is defined as Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent. In Pennsylvania, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity.

**Sexual Assault with an Object** is the use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

**Sexual Harassment** is conduct on the basis of sex or gender that satisfies one of the following:

- (1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct (i.e. quid pro quo);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity;
- (3) Sexual assault, dating violence, domestic violence or stalking as defined in VAWA.

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.

**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.

**Hostile Environment** is created when unwelcome verbal or physical conduct of a sexual nature is sufficiently severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's educational program or activity. 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 severe, pervasive, and 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 the following when it occurs within the University's educational program or activity:

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.

Sexual Exploitation will be evaluated under the severe, pervasive and objectively offensive standard defined under Sexual Harassment as defined herein.

**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 one 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 any action, directly or through others, which is aimed to deter a reasonable person from reporting sexual harassment or participating in an investigation or hearing or action that is done in response to a report of sexual harassment. Retaliation includes any attempt to intimidate, threaten, coerce, or take adverse action against a reporting party, responding party, witness, or any other person participating in or conducting an investigation or resolution of a complaint that negatively alters the terms, conditions or benefits of that individual's equitable access to the University's programs or activities. A finding of retaliation under this policy is not dependent on a finding that the underlying sexual harassment occurred, action taken by any person 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 harassment. 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.

Intimidation, threats coercion, or discrimination including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.

**Consent** is knowing, voluntary and clear permission by word or action, to engage in a particular 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 the person 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 harassment 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 expressed willingness 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 a confidential reporting location.

**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 will receive annual training for conducting investigations which may involve sexual harassment, relationship violence or stalking, if they already have not received annual training from Point Park University or another reputable source.

**Adjudicators** are internal or external individuals appointed by the Title IX Coordinator to conduct hearings pursuant to this policy and determine whether this policy has been violated. Adjudicators will receive annual training for adjudicating cases which may involve sexual harassment, relationship violence or stalking, the definition of sexual harassment, and bias, if they already have not received annual training from Point Park University or another reputable source.

**Hearing Panel** is a three-person panel comprised of the Adjudicator and two faculty or staff members.

**Advisor** is a person who is present to support the Complainant or Respondent and help them understand the policy and procedure as defined herein. The advisor is either chosen by a party (during the investigation phase and the resolution phase) or appointed by the University (during the resolution phase, the advisor has a limited role during the investigation phase of the complaint and the advisor cannot ask questions or answer questions on behalf of the Complainant (s) or Respondent(s). During the resolution phase, which includes the hearing, the advisor can conduct cross-examination of the parties and the witnesses on behalf of the Complainant(s) and the Respondent(s).



**Cross-Examination** is the process by which each party’s Advisor may ask the other party and any witnesses **relevant questions** and follow-up questions, including those challenging credibility.

**Relevancy** means evidence having any tendency to make the existence of any fact of consequence, more or less probable than it would be without the evidence.

**Inculpatory Evidence** is evidence that shows or tends to show a person’s involvement in an act or evidence that can establish responsibility.

**Exculpatory Evidence** is evidence that shows or tends to show a person’s lack of involvement in an act or that can exonerate responsibility.

**Rape Shield Protections** deem irrelevant questions and evidence about a Complainant’s prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or offered to prove consent. The Adjudicator will determine if questions should be excluded based upon these protections at the hearing.

**Privilege** refers to protected information between attorney and client, doctor and patient (medical records), spouses, or clergy privilege. This privilege applies except in cases where the Complainant and the Respondent waive such privilege.

## Options for Assistance

### FOLLOWING AN INCIDENT OF ALLEGED SEXUAL HARASSMENT

Any Point Park student, faculty, or staff member who has experienced or who is aware of conduct that constitutes sexual assault, 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.** If you can, preserve physical evidence. This can be important to the successful criminal prosecution of offenders.

To report any non-emergency sexual harassment, please contact the Title IX Coordinator 412.392.8158, [oci@pointpark.edu](mailto:oci@pointpark.edu), or 330 Blvd. of the Allies, 104D Student Center, Pittsburgh, PA 15222. Reports may also be made to Student Life staff, faculty member, or any other University official.

**A.** Employees may report any non-emergency sexual harassment to the Office of Human Resources.

#### **a. On-line reports**

On-line reports may be submitted, anonymously if so desired, at [www.pointpark.edu/incidentreport](http://www.pointpark.edu/incidentreport). If there is not enough information to gather sufficient details to investigate a complaint it may be dismissed under this policy.

#### **B. Emergency Contact Information**

In the event of sexual harassment which includes 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. This can be important if legal options are pursued later, including obtaining a protection order. There is a limited window of time 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. Please be advised that if you submit a SANE exam for evidence in a hearing the preparer of the report must be able to testify at the hearing.

University staff can assist in obtaining medical or mental health care and notifying law enforcement in the proper jurisdiction if the Complainant desires. Please note that some of these documents may only be entered into an investigative record with informed voluntary written consent. Also, Pittsburgh Action Against Rape can be notified of all reported assaults so that trained crisis counselors can accompany a Complainant 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 supportive 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 or assistance from the University.

EMERGENCY RESPONSE	MEDICAL CARE	COUNSELING
Point Park Police Contact any Police Officer or call 412.392.3960	Student Health Center 3 <sup>rd</sup> Floor Student Center 412.392.3800 (8:30 am - 5 pm, Monday – Friday)  <a href="mailto:Studenthealth@pointpark.edu">Studenthealth@pointpark.edu</a>	Student Counseling Center 5th floor, Lawrence Hall 412.392.3959 (during normal University office hours)
Pittsburgh Police Department Call 911	Magee-Womens Hospital 300 Halket Street 412.641.4933	Pittsburgh Action Against Rape (PAAR) 1.866.END.RAPE (363.7273) www.paar.net
	UPMC Mercy Hospital 1400 Locust Street	Women’s Center and Shelter of Greater Pittsburgh

	412.232.8222	412.687.8005 www.wcspittsburgh.org
		Persad Center 1.888.873.7723 www.persadcenter.org
		Life Solutions 1.800.647.3327 www.lifesolutionsforyou.com

**C. Confidential Reporting, Resources and Supportive Measures**

These supportive measures and resources are designed to restore or preserve equal access to the University’s education programs or activities without unreasonably burdening the other party. 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. Different employees on campus have different abilities to maintain confidentiality. Please review the information below to find the resource with which you are most comfortable. All resources below are free to enrolled students. Complainants or Respondents may also request supportive measures by contacting the Title IX Coordinator.

**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 to the reporter, others or the University community as a whole, 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 Complainant’s permission. Additionally, students may confidentially report information about an incident to a Community Coordinator of Spiritual Life.

***Students may obtain these services on campus from:***

Student Counseling Center  
5<sup>th</sup> floor, Lawrence Hall  
412.392.3959

Community Coordinator of Spiritual Life  
412.392.8097

**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  
3<sup>rd</sup> Floor Student Center  
412.392.3800

**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](http://www.paar.net)

Center for Victims  
24 Hour Crisis Hotline: 1.866.644.2882  
[www.centerforvictims.org](http://www.centerforvictims.org)

Women's Center and Shelter of Greater Pittsburgh  
412.687.8005  
[www.wcpittsburgh.org](http://www.wcpittsburgh.org)

Persad  
1.888.873.7723  
[www.persadcenter.org](http://www.persadcenter.org)

Life Solutions  
1.800.647.3327  
[www.lifesolutionsforyou.com](http://www.lifesolutionsforyou.com)

**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 or mental well-being of the Complainant 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 harassment anonymously through the University's Title IX web page. A link can be found at: [www.pointpark.edu/incidentreport](http://www.pointpark.edu/incidentreport). This report can be seen by the Vice President of Human Resources, the Vice President of Student Affairs, the Dean of Student Life, the Director of Student Development, and the Title IX and Diversity Specialist. Once a report is received it will be routed to the Title IX Coordinator who will determine what action, if any is required for the conduct that is alleged.

### **6. 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 harassment to the Title IX Coordinator. This report to the Title IX Coordinator should include any relevant details about the alleged sexual harassment 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 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 harassment 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 Complainant 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 practicable.

### **7. University Response to Requests for Confidentiality**

Whenever possible and to the greatest extent practicable, 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 for confidentiality in order to provide a safe, non-discriminatory environment for all individuals involved in the process. The final decision regarding confidentiality will be made by the Managing Director of Civil Rights & Title IX; however, the following departments may evaluate and provide input on the request for confidentiality:

- Office of Compliance and Integrity
- Office of Human Resources
- Provost Office
- Public Safety Office
- Office 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 harassment, such as:
  - whether there have been other sexual harassment complaints about the same alleged perpetrator;
  - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
  - whether the alleged perpetrator threatened further sexual harassment or other violence against the Complainant or others;
  - whether the sexual harassment was committed by multiple perpetrators;
- whether the sexual harassment was perpetrated with a weapon;
- whether the Complainant is a minor;
- whether the University possesses other means to obtain relevant evidence of the sexual harassment (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. The Title IX Coordinator has the discretion to consolidate multiple complaints when they arise out of the same facts or circumstances.

If none of these factors is present, the University will likely respect the request for confidentiality and provide supportive measures to the Complainant or reporter.

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 all parties and protect all parties from retaliation or harm. Retaliation, 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 harassment 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:

**Title IX Coordinator, 412.392.8158 or at 330 Blvd. of the Allies, 104D Student Center, Pittsburgh, PA 15222**, contacting any 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](http://www.pointpark.edu/incidentreport).

### **B. Indirect Reporting**

Certain University officials who receive notice of a violation of this policy and who are not listed as a confidential resource elsewhere in this policy are obligated to report that violation to the Title IX Coordinator.

Employees' reports or complaints, including those made by means other than in writing (e.g., oral complaints), may trigger an investigation by Human Resources. Human Resources is required to trigger an investigation if Human Resources staff receive information from any reliable source about allegations of harassment (e.g., a third party such as a union official), or are otherwise aware of information giving rise to a suspicion of possible harassment (e.g., observing possible harassing behavior). Any employee with supervisory authority has an affirmative duty to report suspected sex harassment to the appropriate Human Resources official when the employee observes possible harassing behavior or receives information from any other resource giving rise to a suspicion of possible harassment.

### **C. Protecting Complainants, Reporters and Witnesses**

#### **1. Retaliation**

The University does not tolerate retaliation. When an individual reports sexual harassment to any campus nonconfidential resource, the Title IX Coordinator will work to ensure that the Complainant and reporter are protected from further harassment and from retaliation for making the report. The Title IX Coordinator or a designee will consult with the Complainant and Respondent regarding supportive 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 mutual "no contact order." Supportive measures applicable to students will be enforced under the Student Code of Conduct by the Vice-President of Student Affairs. Supportive measures applicable to staff will be enforced by the Vice-President of Human Resources. Supportive measures applicable to faculty will be enforced by the Senior Vice President for Academic and Student Affairs.

## **2. Amnesty**

Assisting individuals who are reporting sexual harassment is the University's primary interest. In order to facilitate reporting, the Vice-President of Student Affairs may choose not to charge individuals who report sexual harassment 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 harassment, as opposed to complaints which, even if erroneous, are made in good faith, are just as serious as sexual harassment and will be subject to appropriate disciplinary action.

# **INVESTIGATION PROCEDURES AND PROTOCOLS**

## **1. Assessment and Timeline**

The University strives to investigate and resolve all reports of possible violations of the Policy Prohibiting Sexual Harassment, Relationship Violence and Stalking within a reasonable timeframe.

Receipt of a Report that includes allegations of sexual harassment, will trigger an initial Title IX/VAWA assessment. This assessment will be conducted by the Title IX Coordinator, and may include consultation with one or more of the following: Vice President of Human Resources, Dean of Student Life, and/or Associate 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 supportive measures and/or emergency removal processes to address those risks, as well as whether the conduct as reported, if true, would constitute a violation of this policy.



This assessment also will involve consideration of whether emergency removal of a student Respondent is necessary. If it is determined that a student should be removed from the University's education program or activity on an emergency basis, then the University will convene the Behavioral Intervention Team (BIT) to conduct a safety and risk assessment. If the result of this assessment indicates an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment they may be subject to emergency removal. If emergency removal is required, the student Respondent will be provided notice and opportunity to promptly challenge this decision following removal. Where it is deemed appropriate, the University may issue an interim suspension for a student Respondent.

If the initial assessment determines that the alleged conduct, if true, would constitute a violation of this policy, and the Complainant wants to pursue an investigation, the University will appoint an investigator and initiate an investigation. The format of the investigation may vary depending 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. In all instances the University's investigation will be thorough and will be aimed at gathering all relevant information related to the complaint. If the Complainant chooses to pursue criminal charges, the University Police Department will work with the Complainant to connect the Complainant 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.

## **2. Supportive Measures & Remedies**

Upon receiving a report of sexual harassment, the University will provide the Complainant, Respondent 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, advocacy, visa and immigration assistance, student financial aid, including information about current scholarships.

Additionally, the University will notify Complainants of and make available to Complainants assistance with academic, living, transportation, working situations and on-campus supportive 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.

The University will notify Respondents of and make available to Respondents assistance with academic, living, transportation, working situations and on-campus supportive 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 regardless of whether a complaint or report is made to campus police or law enforcement, or a complaint is addressed through the University's resolution process. The University will work with the Complainant and the Respondent to ensure supportive measures remain in place on an as-needed or permanent basis to prevent the discriminatory behavior from recurring even after the disciplinary process concludes.

Supportive measures to protect the safety of all parties will be determined on a case-by-case basis. In making the determination, the University will consider, at a minimum, the party's expressed need, the severity or pervasiveness of the allegations, the continuing effects on the parties, the likelihood that the parties will come into contact with each other through daily activities, and whether any legal steps have been taken to protect the parties. Reasonable supportive measure will be provided upon request for both the Complainant and 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; 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 mutual no contact order, alter the housing accommodations of the Complainant or Respondent; and alter the class, work or extracurricular schedule of the Complainant or Respondent.

Reasonable supportive measures are available to parties for the duration of the time they are enrolled as students. The University will work with the parties if additional supportive measures are needed or need to be altered for the parties to continue their education. Supportive measures cannot be unreasonably burdensome to either party.

#### *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; 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 mutual no-contact order.

Remedies remain available to the parties on an as-needed basis. The University will work with the parties if additional supportive measures are needed or need to be altered for the parties to continue their employment. Supportive measures cannot be unreasonably burdensome to either party.

#### *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; assisting in obtaining counseling services through the Employee Assistance Plan or otherwise; providing escort services on campus and increasing security on campus. If an investigation against a named Respondent occurs, the University may initiate a mutual no-contact order and/or alter the class or work schedule of the parties.

Remedies remain available on an as-needed basis. The University will work with the parties if additional supportive measures are needed or need to be altered for the parties to continue their employment. Supportive measures cannot be unreasonably burdensome to either party.

### **3. Investigation Process**

Investigations into allegations of sexual harassment will usually include interviews with the Complainant, Respondent, and all relevant witnesses. The Complainant and the Respondent have the opportunity to challenge the participation of the investigators based upon bias or conflict of interest. This challenge must be presented to the Title IX Coordinator in writing and it must be done within (2) business days of the identification of the investigators. The Title IX Coordinator will respond to the challenge within (2) business days.

The investigators will summarize all interviews and send them out to the party that was interviewed to provide an opportunity for review and to make any necessary edits. The interviewee will have (3) business days to respond with any comments to their interview summary. A thorough review of pertinent relevant 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**

Complainants and Respondents 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 until the hearing. During the hearing the advisors will have a limited role of cross-examination.

#### **2. Timeline of Investigation**

The University aims to complete investigations under this Policy within a reasonable time frame. 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. Investigation Report and Opportunity to Respond

Upon completion of the collection of the evidence in the investigation, the appointed investigators will submit the evidence collected in the investigation to both parties to inspect, review and respond to the evidence. The parties will have (10) business days to inspect, review, and respond to the evidence in the case which may include requesting the collection of additional evidence. Both parties are restricted from disseminating information contained in the evidence file and both parties are restricted in their responses to 2,000 words or about four pages single spaced.

Upon completion of the investigation, the Investigators will complete the Investigation Report which will include the nature of the allegations reported, a summary of the information gathered from interviews, including statements by all parties, any physical or documentary evidence directly related to the allegations that was reviewed and the addendums of each party's response. The parties will receive the Investigation Report at least ten days before the prehearing conference and the parties may choose to submit a response to the investigative report limited to a 2,000-word response or about four pages within (5) business day prior to the prehearing conference. If there is a response to the Investigative report by the opposing party, the parties and their advisors will be provided the response at least (2) business days prior to the prehearing conference. **Once this is complete the Investigative phase is over and both parties must notify the Title IX Coordinator if they do not have an advisor for the resolution phase immediately.**

## 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 for all complaints except complaints that involve a student and an employee*. Reports of sexual harassment, sexual assault, dating or domestic violence, or stalking can be resolved informally if they do not involve a student and an employee. Mediation may be used for these complaints and at any time during the informal resolution process either party may request to use the formal resolution process. If a complaint is resolved through informal resolution and there is another complaint against the same Respondent, the previous informal resolution case documents may be used in the new formal complaint. This includes the informal mediation agreement and the documents gathered during the informal investigation.

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 hearing. 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. Once a formal complaint has been filed the parties will be offered informal resolution, if both parties agree to this method of resolution then each party will sign the informal resolution form and a Notice of Informal Resolution will be sent out to both parties. Student parties choosing this path of resolution do not forego access to remedies needed to continue their education. Both the Complainant and the Respondent may choose to end an informal resolution and begin a formal investigation at any time prior to a final determination.

The Title IX Coordinator will inform the Complainant and the Respondent if the University will move forward with the informal process. Either party may request informal resolution, up until (10) business days prior to the hearing. If the Title IX Coordinator approves and both parties agree to participate, the formal process will be adjourned while the informal resolution process is pending; if, however, during the informal resolution process, no agreement is reached, the formal grievance process will resume.

Upon initiation of the informal resolution process, the Title IX Coordinator will assign the matter to a trained informal resolution mediator. The mediator will consult with each party separately in an effort to reach a resolution that best meets the interests and needs of the parties. Unless the parties mutually agree, they will not be together in the same space as part of the resolution process. Neither the Complainant nor the Respondent may appeal the final informal resolution decision. At the end of informal resolution process, the mediator will provide a copy of the mediation agreement signed by all parties.

Failure to comply with the signed informal resolution agreement may result in further disciplinary sanctions, either party may file violations of the informal resolution agreement in writing to the Title IX Coordinator for review and resolution.

### **B. Formal Resolution and Hearing**

Once an investigation is conducted and an Investigation Report 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 a reasonable time frame. The resolution phase includes the Hearing Panel, Sanction Officers, and Appeal Officers. The Hearing Panel will consist of two faculty or staff members and the Adjudicator however, the Adjudicator will make the final decision.

The Complainant and the Respondent will have the opportunity to challenge the participation of any member of the resolution phase based upon conflict of interest or bias. This challenge must be presented to the Title IX Coordinator in writing. This must be done within (2) business days of the identification of the Hearing Panel members, Sanctioning Officers, and Appeal Officers. It will be up to the discretion of the Title IX Coordinator to determine if these members can serve impartially. The Title IX Coordinator will respond to the challenge within (2) business days.

If it is determined that a violation of this Policy 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.

### **Prehearing Conference**

The Complainant and the Respondent will be given written notice of the date and time for the prehearing conference within (5) business days of the Title IX Coordinator sharing the Investigation Report and evidence with both parties. Within (10) business days of receiving the hearing notice and before the prehearing conference, the Complainant(s) and the Respondent(s) must notify the Title IX Coordinator if they do not have an Advisor, if they have not already done so, for the Title IX virtual hearing as the University will provide an advisor of the University's choice to conduct cross-examination on behalf of that party. Additionally, the parties through their Advisors have the opportunity to send questions via email to the Title IX Coordinator for a relevancy review by the Adjudicator.

The Adjudicator will have (5) business days to complete the relevancy review before the prehearing conference. The prehearing conference should be scheduled at minimum (10) business days after the Investigation Report and evidence are shared. During the prehearing telephone conference, the parties and their Advisors will affirm that they have received the documents necessary for the hearing, resolve any current issues before the hearing, agree to any undisputed facts of the case, review the witness lists of both parties, and have the Adjudicator advise the parties of which questions have not passed the relevancy review and why. The parties and their Advisors should be prepared during the prehearing conference to identify any witnesses to whom they plan to ask questions on cross examination. The parties will also have the opportunity to request any accommodations necessary for the hearing. The accommodations will be evaluated by the Office of Disability Services for students and the Assistant Vice President of Human Resources and Insurance for employees. At the close of the prehearing conference, the Adjudicator will review the Rape Shield protections and the rules of decorum for the virtual hearing. The hearing will be scheduled at least (5) business days after the prehearing conference date.

Decisions with respect to whether to admit new or rebuttal evidence after the parties have reviewed the evidence and responded to the Investigation Report will be made by the Adjudicator. Such evidence should be brought to the attention of the Adjudicator at the prehearing conference. New evidence is evidence that was not available at the time the hearing notice was sent, could not have been available based on reasonable and diligent inquiry, and is relevant to the matter. Rebuttal evidence is evidence presented to contradict other evidence which could not have been reasonably anticipated by a party to be relevant

information in the fact-gathering stage. All evidence that the Adjudicator decides is relevant will be provided to the Title IX Coordinator who will share the evidence with both parties after the prehearing conference for use at the hearing. No new and/or rebuttal evidence will be accepted at the hearing.

### **Virtual Hearing**

The virtual hearing will occur via video and audio-conferencing technology; however, parties may be in separate rooms in person for the virtual hearing. Each party will receive a link and passcode to the hearing at least 24 hours prior to the hearing date. The witnesses will be in breakout rooms when they are not participating in the hearing process. The Adjudicator will have sole discretion in facilitating the virtual hearing and the Adjudicator will determine what steps to take in the event there are technical difficulties. The Adjudicator will record the hearing; however, no other party shall make any recording of the hearing. The recording of the hearing will be made available on request of the Complainant(s) or the Respondent(s) in accordance with the University's FERPA records request procedure.

### **Outcome**

The Adjudicator is responsible for reviewing the Investigation Report and determining whether a violation of this Policy 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 Adjudicator will be required to write a written report summarizing their findings and the factual bases for them. The Adjudicator will send all case documents and the hearing video to the Sanctioning Officer for review. The Sanctioning Officer will issue any sanctions in a case in which a violation has been found to occur and return the letter to the Adjudicator. The Adjudicator will issue the Outcome Letter simultaneously to both parties via email. The Outcome Letter will outline the decision made and the right to appeal the decision, taking into account any applicable privacy issues.

The Outcome Letter or written findings will include: the allegations; the procedural history from receipt of the formal complaint to the outcome of the Formal Resolution, notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather other information, the hearing; findings of fact; conclusions regarding the policy as applied to the facts; a rationale regarding the result of each allegation, a determination regarding responsibility, disciplinary sanctions, if any, along with remedies designed to restore or preserve equal access to the University's education program or activity or working environment, and information to appeal the decision.

## **C. Corrective Action**

Point Park University reserves the right to impose different methods of corrective action depending on the severity of the offense or depending on the number of violations. The

sanctioning Officer in each case has sole discretion to determine appropriate corrective action, which may deviate from the guidelines set forth below.

The University will consider concerns and rights of both the Complainant and the Respondent. Additionally, the University will consider the current conduct record of a Respondent found responsible to determine the appropriate corrective measure.

Tiers and offenses pursuant of the Policy Prohibiting Sexual Harassment, Relationship Violence and Stalking are based on formal complaints or University complaints.

**Tier 1:** Violations of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation.

**Tier 2:** Multiple Violations of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation; Additionally, a single violation of Sexual Misconduct, depending on severity.

**Tier 3:** Multiple Violations of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation; Additionally, multiple violations of Sexual Misconduct, or a single violation of Sexual Misconduct, depending on severity.

### **Student Corrective Action**

**First Offense – Tier 1:** Violation of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation, and Sexual Misconduct.

Probation Type: Minimum 1-year Disciplinary Probation to Suspension

Education or Remediation: Corrective Measures include, but are not limited to the following: Online education program assigned as appropriate to the offense, counseling as appropriate, formal letter of reprimand, housing probation and housing relocation for residents as appropriate, academic class section reassignment as appropriate, No Contact Order or Negative No Contact Order as appropriate. Point Park University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action.

**Second Offense – Tier 1 or First Offense – Tier 2\*:** Violations of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation, and Sexual Misconduct.

Probation Type: Minimum 1-year University Probation to Expulsion



Education or Remediation: Corrective Measures include, but are not limited to the following: Online education program assigned as appropriate to the offense, counseling as appropriate, formal letter of reprimand, housing termination for residents as appropriate, academic class section reassignment as appropriate, No Contact Order or Negative No Contact Order as appropriate, persona non grata as appropriate. Point Park University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action.

**Third Offense – Tier 1 or Second Offense – Tier 2\* or Tier 3 Offenses:** Violations of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation, and Sexual Misconduct.

Probation Type: Minimum University Suspension for 1-year to Expulsion

Education or Remediation: Corrective Measures include, but are not limited to the following: Online education program assigned as appropriate to the offense, counseling as appropriate, formal letter of reprimand, housing termination for residents as appropriate, removal from academic courses as appropriate, No Contact Order or Negative No Contact Order as appropriate campus-wide persona non grata as appropriate. Point Park University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action.

### **Individuals not affiliated with the University and Alumni**

Disciplinary sanctions for individuals not affiliated with the University and alumni, may include being listed as a Persona Non Grata which will bar the individual from the University temporarily or permanently and will ban the individual from University sponsored events or activities.

### **Employee Corrective Action**

**First Offense – Tier 1:** Violation of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation, and Sexual Misconduct, depending on severity.

Probation Type: Warning or Reprimand

Education or Remediation: Point Park University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action. Corrective

action may include verbal discussion/warning(s) or reprimand, written warning(s), suspension(s) and/or termination.

**Second Offense – Tier 1 or First Offense – Tier 2\*:** Violations of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation, and Sexual Misconduct, depending on severity.

Probation Type: Warning to Suspension

Education or Remediation: Point Park University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action. Corrective action may include verbal discussion/warning(s) or reprimand, written warning(s), suspension(s) and/or termination.

**Third Offense – Tier 1 or Second Offense – Tier 2\* or Tier 3 Offenses:** Violations of Sexual Harassment, Dating Violence, Domestic Violence, Relationship Violence, Stalking, Sexual Exploitation, Sexual Intimidation and Sexual Misconduct.

Probation Type: Suspension to Termination

Education or Remediation: Point Park University reserves the right to impose corrective action steps that deviate from the tiers above based on the severity, frequency or combination of infractions when circumstances warrant immediate action. Corrective action may include verbal discussion/warning(s) or reprimand, written warning(s), suspension(s) and/or termination.

#### **D. Right to Appeal**

Parties to the case are informed of their right to appeal through the University's Policy Prohibiting Sexual Harassment, 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 of whether the University's policy has been violated.

Except as noted above, both the Complainant and the Respondent of all classifications (students, staff and faculty) have the right to appeal the decision of the Title IX Coordinator to dismiss a formal complaint or the Adjudicator's final decision in the Outcome Letter. Parties have (5) business days to appeal the dismissal decision on the grounds of conflict of interest, bias, or procedural irregularity.

An appeal must be filed within ten (10) business days of the date of the Outcome Letter. An appeal may only be filed on five bases: 1) procedural irregularity that affected the outcome of the matter, 2) The Title IX personnel had a conflict of interest or bias that affected the outcome of the matter that could not have been raised previously by the parties, 3) newly discovered evidence that could affect the outcome of the matter, 4) the appealing party believes the sanction was not proportionate to the offense, or 5) 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 an Appeal Officer. The choice of the Appeal Officer is at the sole discretion of the University, provided that the Appeal Officer shall have had no involvement in the prior proceedings related to the complaint in which the appeal is made.

The Appeal Officer will review the Findings of Fact Report and related evidence, the recording of the virtual hearing, the decision by Adjudicator, 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 both parties 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.

## RIGHTS OF THE COMPLAINANT AND RESPONDENT

The University commits to providing a fair and equitable process for resolving complaints that allege violations of this policy, which includes the following:

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

The right to be treated with respect by University officials.

The right of the Respondent to be presumed not responsible until the end of the resolution process and the right to not have disciplinary measures imposed unless and until a policy violation or imminent threat is found.

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

The right for all parties 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 Investigation Report or at any hearing.

The right to appeal dismissal of a Title IX complaint, in accordance with the standards for appeal established by the University's Policy Prohibiting Sexual Harassment, Relationship Violence and Stalking.

The right to appeal the Outcome and Corrective Action in a Title IX Complaint, in accordance with the standards for appeal established by the University's Policy Prohibiting Sexual Harassment, Relationship Violence and Stalking.

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

The right to petition that the Investigators, Hearing Panel, Sanctioning Officer or Appeal Officer be removed on the basis of demonstrated bias or conflict of interest.

The right to have complaints and appeals heard by a University official who have received annual sexual harassment, 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 their advisee as necessary.

The right to be accompanied and assisted by an advisor during the resolution process. This advisor can be anyone, including an attorney or an individual provided by the University to conduct cross-examination of the parties at the virtual hearing.

The right to an outcome based solely on evidence presented during the investigation and resolution 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 harassment is the most effective way to create a learning environment free of sexual harassment. 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 harassment, what to do in the event sexual harassment occurs, and how to keep it from reoccurring.

Each year the University will consider the current campus atmosphere and indicators, as well as prior instances of sexual harassment, to design and implement a campaign or activities which address campus specific issues related to sexual harassment. 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 harassment, definitions of consent, or relationship violence. Educational activities will also include information on how to report sexual harassment, the University investigation process, and support resources available on- or off-campus to those affected by sexual harassment.

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 harassment, how to report sexual harassment, and their rights under federal and state law to work in an environment free of sexual harassment.

Finally, the University makes every effort to make its Policy Prohibiting Sexual Harassment, Relationship Violence and Stalking easily accessible and available to all campus members. The policy is regularly distributed electronically 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-harassment-policy](http://www.pointpark.edu/sexual-harassment-policy).

## TRAINING OF EMPLOYEES

The University takes its responsibility to train its staff, faculty and student-workers on the University's Policy Prohibiting Sexual Harassment, 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 harassment. University employees serving as Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process will receive training on: The definition of sexual harassment; on issues of the relevance of questions and evidence, including when questions and evidence of the Complainant's sexual predisposition or prior sexual behavior are not relevant; and the scope of the University's educational program or activity. University employees who serve as Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, how to conduct an investigation and grievance process including hearing, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issues, conflict of interest, and bias. University employees who serve as Adjudicators and decision makers will receive training on any technology to be used at a live hearing,

All employees who interact with students, whether directly or indirectly, will receive annual training on the definition of sexual harassment and the University's reporting procedures for sexual harassment. Any employee potentially involved in investigating or adjudicating a report of sexual harassment 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, the scope of the sexual harassment policy, 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 resources to bolster its training. Additionally, all University employees who serve as 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 will provide regular updates to the Title IX Coordinator to ensure timeliness of the investigations and/or resolutions, and to ensure that all relevant parties or witnesses are allowed the opportunity to be heard. All training related to this policy will be published to the University's Title IX webpage.

## 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 harassment 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 harassment, and providing resolution for all violations of Title IX.

For information about Title IX compliance, please contact the University's Title IX Coordinator, 412.392.8158, [oci@pointpark.edu](mailto:oci@pointpark.edu), or at 330 Blvd. of the Allies, 104D Student Center, Pittsburgh, PA 15222.

The Title IX Coordinator oversees the University's overall response to sexual harassment. The Coordinator can accept reports of sexual harassment and will take actions necessary to end any reported discrimination and to prevent its recurrence.

**Stephanie Stark Poling, Title IX Coordinator:** [sstarkpoling@pointpark.edu](mailto:sstarkpoling@pointpark.edu)  
412.392.8158; 330 Blvd. of the Allies, 104D Student Center, Pittsburgh, PA 15222

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](mailto:ocr.philadelphia@ed.gov)  
<https://www2.ed.gov/about/offices/list/ocr/complaintform.pdf>

Equal Employment Opportunity Commission (EEOC)  
Contact: <https://www.eeoc.gov/contact-eeoc>

## **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.

## **Preservation of Records**

The University will preserve records for a period of seven years. This includes: grievances process as defined under this policy, any determination regarding responsibility, audiovisual recordings, disciplinary sanctions imposed on the Respondent, and remedies provided to the Complainant designed to restore or preserve access to the University's education program or activity, any appeal and determinations, informal resolution and determinations; all training materials used to train Title IX Coordinators, investigators, Hearing Panel members, Sanctioning Officers, Appeal Officers, any individual who facilitates informal resolution; and records of supportive measures.

The University will also document the basis for its conclusion that the response of the University was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's educational and working program or activity. If the University does not provide a Complainant with supportive measures, then the University will document why this lack of provision was not clearly unreasonable in light of the known circumstances.

### **Policy Revisions**

The University reserves the right to modify this policy for applicable legal requirements or other circumstances. The University's Title IX Coordinator will review this policy routinely to determine whether modifications of this policy are necessary.

## 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&subctn=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&sctn=22&subctn=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&subctn=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&subctn=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&sctn=11&subsctn=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.*

**Link:**

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

## Appendix D

### Virtual Hearing

The virtual hearing will occur via video and audio-conferencing technology; however, parties may be in separate rooms in person for the virtual hearing. Each party will receive a link and passcode to the hearing at least 24 hours prior to the hearing date. The witnesses will be in breakout rooms when they are not participating in the hearing process. The Adjudicator will have sole discretion in facilitating the virtual hearing and the Adjudicator will determine what steps to take in the event there are technical difficulties. The Adjudicator will record the hearing; however, no other party shall make any recording of the hearing. The recording of the hearing will be made available on request of the Complainant(s) or the Respondent(s) in accordance with the University's FERPA records request procedure.

The order of a hearing will be as follows:

1. The Complainant will be invited to deliver an opening statement.
2. The Respondent will be invited to deliver an opening statement
3. The Complainant will be made available for questioning.
  - a. The Respondent's Advisor will ask questions directly to the Complainant; however, the Adjudicator will make a relevancy call before a question is answered.
  - b. The Adjudicator may ask questions of the Complainant.
4. The Respondent will be made available for questioning.
  - a. The Complainant's Advisor will ask questions directly to the Respondent; however, the Adjudicator will make a relevancy call before a question is answered.
  - b. The Adjudicator may ask questions of the Respondent.
5. Witnesses will be called individually for questioning.
  - a. The Complainant's Advisor will ask questions directly to the witnesses; however, the Adjudicator will make a relevancy call before a question is answered.
  - b. The Respondent's Advisor will ask questions directly to the witnesses; however, the Adjudicator will make a relevancy call before a question is answered.
  - c. The Adjudicator may ask questions of each witness.
6. The investigator(s) will be made available for questioning. Questions will be limited to the facts of the case. Investigators may not offer recommendations on a finding of responsibility or sanctions, or opinions about any witness's credibility.
  - a. The Complainant's Advisor will ask questions directly to the Investigator(s); however, the Adjudicator will make a relevancy call before a question is answered.
  - b. The Respondent's Advisor will ask questions directly to the Investigator(s); however, the Adjudicator will make a relevancy call before a question is answered.
  - c. The Adjudicator may ask questions of the Investigator(s).



7. The Complainant will be invited to make a closing statement, including an impact statement and a description of the desired outcome of the hearing.
8. The Respondent will be invited to make a closing statement, including a mitigation statement and a description of the desired outcome from the hearing.

The Hearing Panel will consist of two regularly trained faculty and/or staff members in addition to the Adjudicator who will be external to the University. The University has sole discretion on selecting the panel members for any case. The panel members will receive the case documents at least two (2) business days before the hearing. The Adjudicator is responsible for the administration of the hearing and will consult with the hearing panel however, the Adjudicator will have sole authority to make the final determination based upon a preponderance of the evidence standard.

The Adjudicator may take up to ten (10) business days after the hearing to review the documentation and hearing notes before making a finding with respect to responsibility. After the (10) business days the Adjudicator will forward the case documents to the Sanctioning Officer who will have (10) business days to review the case documents, the Adjudicator's findings, and review the recording of the hearing to make a final decision regarding sanctions. The Sanctioning Officer will assign sanctions before sending the sanctions back to the Adjudicator. The Adjudicator will issue the Outcome Letter to the Title IX Coordinator, who will then send the Outcome Letter to the Complainant and the Respondent simultaneously via email. In the event that a Respondent is found not responsible, the Adjudicator will issue the Outcome Letter to the Title IX Coordinator, who will then send the Outcome Letter to the Complainant and the Respondent simultaneously via email within ten (10) business days.

The Outcome Letter or written findings will include: the allegations; the procedural history from receipt of the formal complaint to determination of the formal complaint, notifications to the parties, interviews with parties and witnesses, site visits (if any), methods used to gather other information, the hearing; findings of fact; conclusions regarding the policy as applied to the facts; a rationale regarding the result of each allegation, a determination regarding responsibility, disciplinary sanctions, if any, along with remedies designed to restore or preserve equal access to the University's education program or activity or working environment, and information to appeal the decision.

## **Appendix E**

### Rules of Decorum for the Sexual Harassment Hearing

*Title IX Sexual Harassment hearing is a quasi-judicial proceeding; however, it is administrative, thus, there is no legal bearing from the outcome of the hearing. The Rules of Decorum for this hearing are similar to a court of law however this is not a court of law. Any person who violates these rules may be asked to leave the virtual hearing which may further delay the Title IX proceeding. These rules include but are not limited to the following:*

- All participants are expected to agree to the recording of the hearing. All electronic devices should be silenced during the proceeding and no party shall make or distribute any recordings or copies of the hearing. However, either party may request a copy of the proceedings from the Title IX office.
- All participants shall advise the Adjudicator if there is any accommodation, they requested, that has not been provided.
- All participants will follow any additional rules of decorum that the Adjudicator may have. The Adjudicator will list any additional rules before the proceeding begins.
- All participants shall notify the Adjudicator immediately at the start of the hearing, if for any reason they do not have an Advisor present on the Zoom hearing call.
- All participants are expected to conduct themselves in a civil and respectful manner. If any participant does not conduct themselves in a civil and respectful manner, the Adjudicator may provide two warnings to any party before they are placed in a virtual breakout room.
- All participants are expected to use a Zoom virtual background to eliminate distractions. There shall be no comments made from other parties during the proceeding unless it is their turn to present testimony or to be cross-examined. All other participants who are not being questioned should have their microphones on mute. If there is another party testifying you cannot make gestures, suggest answers or in any way coach a party on what to say on or off-camera.
- All participants will wait to be recognized by the Adjudicator before speaking.
- All participants will speak their name and Title (Student, Staff, Faculty) when they are initially addressed and all participants will ensure their name is listed correctly among the Zoom participants.
- All participants will address the Adjudicator with all testimony and questions. All participants will be succinct, stay on topic and remain focused on the questions and issues. There will be no commentary while others are speaking. For example, there will be no applause, sounds, obscene language, or personal attacks for the duration for the hearing.
- All Attorneys representing the parties as Advisors shall be restricted to Cross-examination only and shall inform the Adjudicator of their participation in the hearing. Attorneys shall state on the record their name and the party they represent. Cross-examination shall be guided by the principals of due process and by the general application of the Title IX relevancy rules.
- At all times the Adjudicator will rule on the relevancy of the questions before the question is answered. The Adjudicator will explain why a question is deemed not

relevant. Once the Adjudicator makes a relevancy determination, the parties or advisors cannot challenge it.

- If at any time an advisor or any party needs to speak to the Adjudicator, they will push the raise hand button and the Adjudicator will address them directly. This procedure will also be used for any party to request a breakout session with their advisor or a break for the proceeding.
- The Adjudicator has the sole discretion to determine if there is any bias, unfairness, or ineptness of any Advisor conducting cross-examination during the Title IX Sexual Harassment hearing.

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Effective Date:	November 9, 2016
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- August 11, 2015 – Revised Policy
- August 2014 – New Policy