

## I. Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy

All forms of sexual harassment, sexual violence, relationship violence and stalking and attempts to commit such acts are considered to be serious misconduct and may result in disciplinary action up to and including expulsion or termination of employment. In addition, such acts may violate federal, state and local laws and perpetrators of such acts may be subject to criminal prosecution. This policy, which prohibits behaviors that are more generally addressed by the University's Sexual Misconduct Policy, applies to faculty, post-doctoral and other trainees, students, staff and visitors to the University campus and facilities.

### Sexual Harassment

For the purposes of University policy, the term "sexual harassment"<sup>1</sup> refers to any unwanted conduct that is based on an individual's sex, sexual orientation, gender identity, or gender expression and that:

- Conditions an educational or employment benefit on participation in unwelcome sexual conduct;
- A reasonable person would determine is so severe, pervasive, and/or objectively offensive that it effectively denies a person equal access to an educational or employment program or activity.

**Sexual violence** includes a range of behaviors in which an act of a sexual nature is taken against another individual without that person's consent or when the individual is unable to consent. There are various types of sexual violence, including but not limited to sexual assault and rape (defined below).

**Sexual assault** (including but not limited to rape) is defined as having committed any of the following acts:

- Any physical sexual contact that involves the use or threat of force or violence or any other form of coercion or intimidation.
- Any physical sexual contact with a person who is unable to consent due to incapacity or mental or physical impairment. "Incapacity" or "impairment" include but are not limited to being under the influence of alcohol or drugs or being too young to consent.

**Rape** is defined as sexual assault involving an act of penetration and includes acquaintance rape (assailant and victim know each other).

**Non-forcible sex acts** include unlawful sex acts where consent is not relevant, such as sexual contact with an individual under the statutory age of consent as defined by Pennsylvania law.

**Consent** is an affirmative decision to engage in mutually agreed upon sexual activity and is given by clear words or actions. Consent may not be inferred from silence, passivity or lack of resistance alone. Furthermore, consent to one form of sexual activity does not imply consent to other

<sup>1</sup> The terms "harassment" and "sexual harassment" are used throughout and are defined as a matter of University policy, and are not necessarily identical or limited to the uses of the term in external sources, including governmental guidelines, laws, regulations or legal decisions. Where sexual harassment involves sexual violence, relationship violence, domestic violence and/or stalking, refer also to the University's Sexual Violence, Relationship Violence and Stalking Policy. This Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy and the Consensual Romantic & Sexual Relations in the Workplace and Educational Setting Policy are sometimes referred to together as the "Sexual Misconduct Policies."

forms of sexual activity and the existence of a current or previous dating, marital or sexual relationship is not sufficient to constitute consent to additional sexual activity. Assent shall not constitute consent if it is given by a person who, because of youth, disability, intoxication or other condition, is unable to lawfully give his or her consent.

**Relationship violence**, also commonly known as dating violence, is defined as an act or a pattern of abuse committed by a person involved in a social, sexual or romantic relationship, past or present, with the victim. Relationship violence can encompass a broad range of behaviors that may include physical violence, sexual violence, emotional violence and economic violence.

**Domestic violence** is defined as abuse committed against an adult who is a spouse or former spouse, cohabitant or someone with whom the abuser has a child, has an existing dating or engagement relationship or has had a former dating or engagement relationship.

**Stalking** means engaging in a course of conduct directed at specific person(s) that would cause a reasonable person to fear for his or her safety, the safety of others, or to suffer substantial emotional distress.

In determining whether the alleged conduct violates this policy, consideration will be given to the totality of the circumstances, including the nature of the conduct and the context in which the alleged incident occurred. Generally, complaints of sexual harassment, sexual violence, relationship violence and stalking must be made by members of the University community and those made by individuals who are not students, faculty, staff, post-doctoral or other trainees, or alumni will be directed to external resources available to respond to their complaint or provide support and advice.

The University regards such behavior as a violation of the standards of conduct required of all members of its community. Accordingly, as noted in the University's *Handbook for Faculty and Academic Administrators*, *Human Resources Policy Manual*, *Pennbook* and other publications, persons engaged in such behavior are subject to the full range of internal disciplinary actions, including separation from the institution. The same range of disciplinary actions will be applied in the event of retaliation against an individual who in good faith makes an allegation of sexual harassment, who cooperates in an investigation into such allegations, or who opposes any act of sexual misconduct as defined in this Policy.

Not every act that might be offensive to an individual or a group necessarily will be considered a violation of the University's standards of conduct. In determining whether an act constitutes sexual misconduct, the totality of the circumstances surrounding the conduct must be carefully reviewed. Due consideration must be given to the protection of individual rights, open expression, and academic freedom.

### A. Resources

Schools, Centers and administrative Divisions should make known to all of their members the available resource offices for information, counseling and support, as well as the informal and formal procedures for resolving complaints of sexual harassment within the appropriate School, Center, Division, or at the University level. These resources include the following:

## 1. Confidential Resources for Information, Counseling and Support

Resource offices are available to assist members of the Penn community and visitors to the campus who have been, or know someone who has been, the victim of sexual violence, relationship violence or stalking. The staff of these offices are available to provide counseling and support, as well as information about and assistance with making a complaint.

Generally, the information shared with the resources listed below will be held in confidence, consistent with the University's obligation to address complaints of sexual violence, unless the person sharing the information gives their consent to the disclosure of that information. Non-identifying information regarding complaints should be provided to the AVP for purposes of assuring compliance with Title IX and other applicable laws and regulations. Confidential resources are not obligated to share identifying information with the AVP when an incident of sexual violence is shared with that resource. However, the commitment to confidentiality does not preclude the sharing of information among University administrators as appropriate to keep members of the University community safe. In addition, confidential resources should submit non-identifying information about incidents of sexual violence to the Division of Public Safety for the purpose of crime statistics reporting under the Clery Act. (For additional information regarding requirements, see the Clery Act & Crime Reporting page at <https://www.publicsafety.upenn.edu/clery/>)

- *African-American Resource Center* (resource for students, staff or faculty)
- *Counseling and Psychological Services*, including its Sexual Trauma Treatment Outreach and Prevention team also known as STTOP (resource for students),
- *Employee Assistance Program* (resource for staff or faculty)
- *Lesbian Gay Bisexual Transgender Center* (resource for students, staff or faculty)
- *Office of the University Chaplain* (resource for students, staff, faculty, postdoctoral and other trainees or visitors)
- *Office of the Ombuds* (resource for students, staff, faculty, postdoctoral and other trainees, or visitors)
- *Penn Violence Prevention* (resource for students)
- *Penn Women's Center* (resource for students, staff or faculty)
- *Special Services Department*, Division of Public Safety (resource for students, staff, faculty, postdoctoral and other trainees or visitors)
- *Student Health Service* (resource for students)

## 2. Informal and Formal Mechanisms for Complaint Resolution

If both parties agree and the AVP deems it to be an appropriate instance for an informal resolution of a complaint, the AVP will meet with the parties individually, and others as appropriate, in an effort to resolve the complaint. When informal resolution is not chosen, one of the parties is not satisfied with the results, or the proposed resolution is not appropriate, the formal mechanisms described below should be used.

A formal complaint of sexual misconduct against any member of the Penn community should be initiated by contacting the AVP. Formal complaints will be handled in accordance with the applicable procedures as set forth below.

### Complaints Against Faculty

Any member of the University community, visitor to campus or a participant in a University-sponsored activity may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or inappropriate romantic or sexual relationships in the educational setting or workplace, against a faculty member, instructor, postdoctoral or other trainee, or teaching assistant. The complaint should be made to the AVP, who will meet with the complainant, determine the appropriate process under University policy for investigation, and oversee that process. If a determination is made that the complaint involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Procedures for Resolving Complaints of Sexual Misconduct Against Faculty. If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, then the AVP will oversee the formal or informal resolution process(es), advising the Dean of the applicable School that a complaint has been made and discussing any interim measures that may be needed. In either case, for Standing Faculty, the Procedure Governing Sanctions Taken Against Members of the Faculty, *Handbook for Faculty and Academic Administrators*, Part II.E.16, will be followed where applicable.

### Complaints Against Staff

Any member of the University community visitor to campus or a participant in a University-sponsored activity may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or inappropriate romantic or sexual relationships in the educational setting or workplace, against a staff member. The complaint should be made to the AVP who will meet with the complainant and coordinate with the Office of Staff and Labor Relations in the Division of Human Resources, as appropriate. If a determination is made that the complaint involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Procedures for Resolving Complaints of Sexual Misconduct Against Staff or the applicable collective bargaining agreement. If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, the AVP will oversee the formal or informal resolution process(es), advising the Dean or Vice President of the applicable administrative Division that a complaint has been made and discussing any interim measures that may be needed.

### Complaints Against Enrolled Students

Any member of the University community or a visitor to campus may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or inappropriate romantic or sexual relationships in the educational setting or workplace against an enrolled student. The complaint should be directed to the AVP who will oversee the investigative and resolution process(es). If a determination is made that the complaint involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Student Disciplinary Procedures for Resolving Complaints of Sexual Misconduct. If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, then the AVP will oversee the formal or informal resolution process(es), advising the Dean of the applicable School that a complaint has been made and discussing any interim measures that may be needed.

Members of the University community who would like assistance with making a formal complaint may contact any of the confidential resources identified above. As further set forth below, all formal complaints involving Sexual Misconduct are to be initiated by contacting the Associate Vice President for Equity and Title IX Officer ("AVP") who will be responsible for deciding whether the conduct described would violate the Sexual Misconduct Policy, and if so, which investigative or resolution process to pursue.

### B. Reporting and Monitoring

The University is committed to ensuring that members of the University community who share information regarding incidents of sexual misconduct receive the information, counseling and support that they need and are aware of the process for making a formal complaint. The University is also committed to monitoring reports and complaints of sexual misconduct so that any patterns or systemic problems revealed by such reports and complaints can be addressed. Consistent with these commitments, the AVP should be advised when incidents of sexual misconduct, including sexual violence, are reported to any of the University's resource offices (except those identified as confidential resources), Division of Human Resources (as well as Human Resources staff in the Schools and Centers); Deans, Vice, Associate or Assistant Deans of the 12 Schools; Vice Provosts; Office of Affirmative Action and Equal Opportunity Programs (OAA/EOP); and Division of Recreation and Intercollegiate Athletics (DRIA). When an incident of sexual misconduct is reported to the AVP, appropriate steps will be taken to ensure that the individual who reported the incident has been advised of the resources available to them and the process for making a formal complaint. Members of the University community who have crime statistics reporting obligations under the Clery Act are obligated to report the matter to the Division of Public Safety, in addition to the AVP. For additional information about Clery Act reporting or to make a report, refer to the Clery Act & Crime Reporting page at <https://www.publicsafety.upenn.edu/clery/>

### C. Rights of Complainants and Respondents

Persons who make a complaint and those who are responding to complaints have the following rights:

- The option to notify law enforcement;
- The option to have an advisor, including an attorney the party has retained,

present during interviews that are part of a University initiated investigation;

- To be notified of counseling and support services available; and
- To be notified of available options to change academic, living or work arrangements.

#### **D. Education and Prevention**

*All members of the University community have a responsibility to aid in the prevention of sexual harassment and are encouraged to discuss concerns with the AVP or another of the University resource offices listed in the policy. The AVP will ensure that the policy is publicized regularly and that educational programs and training are offered to faculty, staff, and students.*

#### **E. Policy Against Retaliation**

University policy expressly prohibits retaliation against faculty, staff or students who in good faith make reports of violations of this policy. In addition, knowingly and intentionally making a false report of a violation of this policy is prohibited. Members of the Penn community who take adverse action against, intimidate, threaten or otherwise engage in retaliation against a person because they filed a complaint of sexual misconduct or served as a witness during an investigation are subject to disciplinary action, up to and including termination of their employment or expulsion from the University.