This policy statement describes the University’s position regarding sexual misconduct involving students and outlines the procedures to be followed when reporting complaints of sexual misconduct so as to assure that an adequate, reliable and impartial investigation is undertaken by the University.

**POLICY AND PURPOSE**

Millersville University (“the University” hereinafter) is strongly committed to maintaining a positive learning, working, and living environment for all and assuring it’s educational and employment environment is free from unlawful discrimination or harassment. The University does not discriminate on the basis of race, color, religion, creed, national origin, sex, sexual orientation, gender identity, gender expression, genetic information, marital status, age, disability, pregnancy, or status as a disabled veteran, a Vietnam era veteran or other covered veteran in admission and access to, and treatment and employment in, its educational programs and activities. The University will not tolerate acts of discrimination, harassment, or retaliation against or by any employee or student.

The University complies with Title IX of the Education Amendments of 1972 (“Title IX”) and its underlying regulations, prohibits discrimination on the basis of sex in education programs and activities. This policy is intended to ensure a safe and non-discriminatory environment and assure compliance with applicable laws and regulations.

In addition, this Title IX/Sexual Misconduct Policy has been developed to:

1. Educate the campus community about shared values and expectations regarding sexual behavior.
2. Define sexual misconduct as a range of behaviors prohibited by the University’s Student Code of Conduct and other University policies.
3. Clarify the difference between the criminal process that might be initiated with local police and the procedures for addressing reports of sexual misconduct violations under the University’s Student Code of Conduct.
4. Describe the rights of those who report violations and those who are accused of violating the Title IX/Sexual Misconduct Policy.
5. Provide guidance on what a person should do if they have been sexually assaulted or victimized.
6. Communicate University procedures regarding the rights of victims and the accused;
7. Ensure compliance with appropriate state and federal regulations, including Title IX and the Jeanne Clery Act.
8. Identify campus and community resources for those who wish to report sexual misconduct and for students who have been accused of sexual misconduct.

Complaints of sexual assault, sexual violence, sexual harassment, stalking, domestic violence, intimate partner/dating violence, and other sex-based discrimination or harassment are processed consistent with this policy and the Student Code of Conduct.

Members of the Millersville University Community are expected to adhere to University policies, as well as local, state and federal laws. Accordingly, this policy applies to all campus constituents, including students, faculty, staff, volunteers, guests and vendors. This policy will also be applicable to students from another school, off-campus personnel involved in an internship or coop program, or a host or personnel at a study abroad program. Any complaint of sexual misconduct that is received, regardless of where the conduct occurred, must be assessed to determine if the act happened in the context of an educational program or activity or potentially has an adverse impact on the campus community.

Title IX’s sex discrimination prohibition extends to claims of discrimination based on gender identity. The protections afforded under title IX cover all students, faculty, administrators, staff and applicants regardless of whether the person’s gender is male or female or whether the person is straight, gay, lesbian, bisexual or transgender. The actual or perceived sexual orientation or gender identity of the parties does not change the University’s obligations under Title IX.

The University is committed to its support of protecting free expression and principles of academic freedom. As such, legally protected expression and the proper exercise of academic freedom will not constitute unlawful discrimination or harassment.

The policy and procedures addressed here are in addition to, and not a replacement for, any legal options that may be available. Any individual who believes that he or she is the victim of a crime involving sexual misconduct should immediately initiate the criminal process, which is separate from the administrative proceedings set forth in the University’s policies and procedures. Those interested in pursuing a criminal investigation should contact Millersville University Police (717) 871-4357 or dial 911 for the local police.

Sexual misconduct violates Title IX of the Education Amendments of 1972. This means that a complaint may be file with the Millersville University Interim Title IX Coordinator, Jayme Trogus, (717) 871-4100, jayme.trogus@millersville.edu-Student Memorial Center Office, room 107B.

Complaints may also be filed with the U.S. Department of Education, Office of Civil Rights at https://wdcrbcolp01.ed.gov/cfapps/OCR/contactus.cfm or by phone at (215) 656-8541.

**SCOPE**

This policy and procedure applies to and covers all areas of University operations, programs, sites, and includes the conduct of employees, students, visitors/third parties, and applicants. This policy and procedure covers all University programs and activities that occur on the main
campus, branch campus, online, or any facility geographically separated from the main campus wherein University employees, students, visitors/third parties, and applicants are conducting activities affiliated with the University.

Any individual (i.e., person, visitor, student, faculty, staff, administrator, or applicant) may seek information about unlawful sexual discrimination, harassment or misconduct or file an informal or formal complaint (see page 9). Any individual may contact the Title IX Coordinator, directly for informal discussion, advice, and assistance. The Title IX Coordinator and Executive Director of Human Resources are designated as the offices of referral for information, advice, assistance, and resolution of sexual misconduct complaints. No other University employee or official, other than those specifically designated, may conduct an official investigation of sexual discrimination, harassment, or misconduct. In any complaint where the respondent is a University student, the investigation of the complaint will be conducted through the office of the Title IX Coordinator. The findings of the investigation team will be processed through the Office of Judicial Affairs under the procedures established within the Judicial Affairs Handbook.

The Executive Director of Human Resources will be the primary investigator for Title IX sexual misconduct complaints involving faculty, staff members, or administrators. The Title IX Coordinator will be advised of such complaints and will be apprised of the steps of any investigation. The Title IX Coordinator may provide guidance on all issues relevant to compliance with Title IX. If a complaint of sexual misconduct involves a student and a member of the faculty or University staff the investigation will be conducted by the Executive Director of Human Resources.

Professional relationships are paramount to the mission and goals of Millersville University. Understanding this, it is essential to establish a standard of expected conduct in these relationships. Personal relationships should not conflict with an individual’s work or educational experience. A University faculty, staff or administrator with professional responsibility or supervision of another has real or potential power an authority over that individual. This authority arises in a variety of roles, including but not limited to supervisor, mentor/advisor, professor, coach, etc. Any University faculty, staff or administrator with such authority shall not abuse that power. Amorous and sexual relationships between a student or subordinate and an individual with any professional responsibility for that student or subordinate inherently create conflicts of interest and the potential for favoritism and exploitation and may constitute unprofessional conduct. The consensual nature of such relationship does not necessarily constitute a defense to a charge of sexual misconduct or related unprofessional conduct. It is the ethical and professional responsibility of the person in the position of power to relinquish decisions regarding the student/subordinate and remove themselves from the supervisory role. Any faculty, staff or administrator in a supervisory role who enters into an amorous or sexual relationship with another employee or student enters into that relationship with risk. These persons will be subject to scrutiny if the complaint of sexual misconduct is leveled again the “supervisory person” by the “subordinate person” of if a third party brings a complaint.

**DEFINITIONS**

**Sexual Misconduct:** The Title IX/Sexual Misconduct Policy at Millersville University covers a variety of acts that are perpetrated against another without consent or when an individual is unable to give consent freely. Anyone can be a victim regardless of their gender, age or sexual orientation. Sexual misconduct includes, but is not limited to, the following prohibited behaviors:

1. Sexual Discrimination
2. Sexual Harassment
3. Sexual Assault
4. Sexual Exploitation
5. Stalking
6. Dating Violence
7. Domestic Violence

For further information on what constitutes sexual misconduct please refer to Section B of the Student Code of Conduct:

http://www.millersville.edu/services/judicialaffairs/files/StudentCodeofConduct.pdf

Consent: Consent to sexual activity as defined in the Student Code of Conduct must be clear, knowing and voluntary between the participants. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions of a participant, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

1. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
2. Previous relationships or prior consent cannot imply consent to future sexual acts.
3. In order to give effective consent, one must be of legal age, i.e., over the age of 16.

It should be noted that in some situations, an individual’s ability to freely consent is taken away by another person or circumstance. Examples include when an individual is significantly impaired due to alcohol or other drugs, scared, physically forced, passed out, intimidated, coerced, mentally or physically impaired, beaten, threatened, isolated, or confined. Intentional use of alcohol/drugs does not imply consent to sexual activity.

Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent. One who is incapacitated as a result of alcohol or other drug consumption (voluntarily or involuntarily), or who is unconscious, unaware, or otherwise helpless, is incapable of giving consent.

One must not engage in sexual activity with another whom one knows (or should reasonably know) to be incapacitated. Physically incapacitated persons are considered incapable of giving effective consent when they lack the ability to appreciate the fact that the situation is sexual or cannot rationally and reasonably appreciate the nature and extent of that situation.

Examples of incapacitation include:

1. Unconscious
2. Sleeping
3. Physically or psychologically pressured or forced
4. Intimidated
5. Threatened

Incapacitation can also result from:

1. A psychological health condition.
2. A physiological health condition.
3. Voluntary intoxication.
4. Involuntary use of any drug, intoxicant or controlled substance.

People with mental disabilities cannot give consent to sexual activity if they cannot understand the act, nature, consequences, risks, or extent of the sexual situation.

**Sexual Harassment:** Sexual harassment consists of interaction between individuals that is characterized by unwelcome sexual advances, coercion, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, living conditions and/or educational evaluation; (2) submission to or rejection of such conduct by an individual is used as the basis for tangible employment or educational decisions affecting such individual; or (3) such conduct has the effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile or offensive working or educational environment.

Unwelcome conduct of a sexual nature that is sufficiently severe, persistent, and pervasive, which results substantially limiting or interfering with an individual’s work, educational performance, participation in extra-curricular activities, or equal access to the University’s educational resources and opportunities will subject an individual to appropriate disciplinary action by the University.

**Sexual Assault:** is any type of sexual conduct or contact that occurs without the explicit consent of the recipient.

**Non-consensual sexual contact:** is any sexual touching (including touching with an object) however slight, by one person on another without consent.

**Non-consensual sexual intercourse:** is any sexual intercourse (anal, oral or vaginal), including the use of an object for sexual intercourse, however slight, by one person upon another without consent.

**Sexual Exploitation and/or Exposure:** is when a student takes nonconsensual, unjust or abusive sexual advantage of another for his/her own pleasure, advantage or benefit, or to pleasure, benefit or advantage anyone other than the one being exploited. Sexual exposure occurs when a student engages in lewd exposure of the body done with the intent to arouse or satisfy the sexual desire of any person.

Examples of sexual exploitation include, but are not limited to:

1. Non-consensual video, photographing, or audio-taping of sexual activity.
2. Non-consensual distribution of a video, photograph, or sound recording of sexual activity.
3. Non-consensual photographing of a nude person.
5. Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex).
6. Engaging in peeping or indecent exposure.
7. Inducing incapacitation through alcohol or drugs in order to sexually assault another person (whether or not sexual contact actually takes place); an example could include spiking someone’s drink.
**Stalking:** is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for one’s safety or the safety of others or suffer substantial emotional distress.

Cyberstalking is another form of stalking where a person engages in a course of conduct using the Internet, e-mail, or other electronic communications devices to pursue or track another person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

Stalking can include:

1. Unwanted telephone calls.
2. Unwanted letters, e-mails, social media messages (e.g. Twitter, Facebook,) or other forms of communication/messaging.
3. Unwanted or threatening gifts.
4. Pursuing or following a person without his or her consent.
5. Unwanted appearances at a person’s place of residence, school, or work.
6. Surveillance or other types of observation.
7. Use of electronic devices or software to track or obtain private information.

**Dating Violence:** is defined as 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 a consideration of the following factors: the length of the relationship, the type of relationship, or the frequency of interaction between the persons involved in the relationship.

Dating Violence can include:

1. Physical assault (such as shoving, kicking or punching).
2. Verbal abuse
3. Controlling behavior (such as not letting the victim see friends and/or family, telling the victim what to wear).
4. Sexual abuse (such as forced kissing, hugging or sexual contact).
5. Psychological abuse (such as threatening to hurt the victim or family or friends, or instill fear).

**Domestic Violence:** Domestic violence includes felony or misdemeanor crimes 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 or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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 jurisdiction.

Domestic Violence can include:

1. Physical assault (such as shoving, kicking or punching).
2. Verbal abuse.
3. Controlling behavior (such as not letting the victim see friends and/or family, telling the victim what to wear).
4. Sexual abuse (such as forced kissing, hugging or sexual contact).
5. Psychological abuse (such as threatening to hurt the victim or family or friends, or instill fear).

**Complaint/Incident Report:** a detailed written statement of allegations of unlawful or prohibited sexual misconduct that is signed and dated by the complainant. Complaints submitted electronically or in writing are permissible under these procedures.

**Complainant:** the complainant is the individual (i.e., student, employee, administrator, applicant, person, or visitor) who makes allegations that sexual misconduct has occurred.

**Investigation:** is a prompt, systematic collection of all reasonably ascertainable and relevant facts in a fair and objective manner. An assigned Investigative Team conducts an investigation, including investigatory interviews of witnesses, the employee or student making the complaint and the employee or student respondent. The Investigative Team prepares an investigative fact-finding report at the conclusion of the investigation. Generally, the Investigative Team will consist of the Title IX Coordinator or the Executive Director of Human Resources; however, depending on the circumstances of the complaint, additional individuals may be assigned to conduct an investigation of a complaint.

**Mediation:** is a voluntary, informal resolution process in which the parties in a dispute agree to work through and resolve the dispute with the assistance of a neutral, third-party mediator(s).

**Respondent:** is the individual against whom allegations of sexual misconduct or retaliation are made.

**Retaliation:** occurs when a student or employee is subjected to adverse action in response to that individual expressing concern about sexual misconduct or participating in the opposition or resolution of a complaint involving sexual misconduct.

**REPORTING DUTIES AND RESPONSIBILITIES**

Any individual (e.g., person, visitor, student, faculty, staff, administrator, or applicant) who is made aware of an incident or receives a report of sexual misconduct should immediately refer the person directly to the Title IX Coordinator or the Executive Director of Human Resources for assistance. All initial reports of sexual misconduct will be reviewed by the Title IX Coordinator or the Executive Director of Human Resources. The report will be assigned to the appropriate office for the initiation of the investigation process, including the providing of any necessitated accommodations.

**General Obligation to Report**

In order to take appropriate and prompt corrective action, the University must be made aware of any alleged sexual misconduct that occurs in the providing of University educational programs or activities. Any individual who experiences or witnesses sexual misconduct or retaliation should promptly report it to the Title IX Coordinator, Executive Director of Human Resources, or a Deputy Title IX Coordinator or other appropriate University personnel.

**Supervisor/Manager Obligation to Report**

Any supervisor/manager who witnesses or receives a written or oral complaint of sexual misconduct that occurs in the providing of University educational programs or activities is required to promptly report it to the Title IX Coordinator, the Executive Director of Human Resources, or the Title IX Coordinator.
Resources or a Deputy Title IX Coordinator. A failure to report sexual misconduct or retaliatory activities may constitute a policy violation. This requirement does not obligate a supervisor to keep certain communications confidential as mandated by law.

Any individual receiving a report of sexual misconduct is required to contact the Title IX Coordinator, Executive Director of Human Resources, supervisor or other designated employee listed in the University Resources section of this policy. If the individual to whom the sexual misconduct normally would be reported is the individual accused of the sexual misconduct, complaints should be made to the Title IX Coordinator (or Deputy Title IX Coordinator), supervisor, or designated resource person. If the individual is a supervisor or other designated resource person, that individual shall in turn ensure prompt notification to the Title IX Coordinator. Reports of sexual misconduct should be reported immediately or as soon as possible after the alleged conduct occurs.

GENERAL COMPLAINT PROVISIONS

Assistance for Complainants and Respondents
It is the University’s policy to recognize and respect the rights of any individual against whom a complaint has been filed. All students and employees enjoy procedural due process rights which include notice and the opportunity to be heard. If applicable, employees accused of sexual misconduct shall have the right to be assisted by their collective bargaining unit representative at any meeting held to discuss the complaint.

Confidentiality
Good faith efforts shall be made, to the extent possible, to protect the privacy of those involved in the filing and investigation of a complaint. The University, however, is not able to guarantee absolute confidentiality because it is obligated to take appropriate steps to mitigate the effects of alleged sexual misconduct, prevent it recurrence and, if need be, make accommodations for the student(s) involved. In recognition of the dignity and reputation of all individuals, the University’s intent is to preserve the confidentiality of the complaint during its investigation. Disclosure of the complaint will be limited to individuals who, in the interest of fairness and resolution, are involved in the investigation. The University will take reasonable measures to protect the confidentiality of the testimony and records produced during an investigation conducted pursuant to this policy. The complainant and respondent are strongly encouraged to maintain confidentiality. The following steps should be taken to help assure confidentiality:

1. The number of persons with knowledge of the complaint shall be kept to a minimum. Only persons with a need to know shall be notified of the complaint.
2. The Title IX Coordinator or the Executive Director of Human Resources shall exercise discretion in the setting of dates and locations of interviews, and the placing of, and responding to, telephone calls and written correspondence related to the complaint.
3. The Investigative Team will interview the complainant, the respondent and individuals named as witnesses by the complainant and respondent to the extent possible.

False Accusations
Sexual misconduct is a serious matter that can impact and have far-reaching effects on the education, careers and lives of all individuals involved. Therefore, knowingly making a material misstatement of fact may also result in corrective or disciplinary action.

Individuals who believe that they have been the subject of a false complaint of sexual
misconduct may meet with the Title IX Coordinator to discuss the allegations. The filing of a complaint that results in a finding of no policy violation is not sufficient evidence of the intent to file a false complaint.

**Retaliation Prohibited**
The University prohibits retaliation against individuals who, in good faith, assert their rights to bring a complaint of sexual misconduct. Retaliation against any person for reporting or complaining of sexual misconduct, assisting or participating in the investigation of a complaint of sexual misconduct, or enforcing University policies with respect to sexual misconduct is strictly prohibited. Overt or covert acts of reprisal, interference, restraint, discrimination, intimidation, or harassment against an individual or group for exercising rights or performing duties under these procedures will be subject to appropriate and prompt corrective or disciplinary action.

Retaliation, if found to have occurred, is considered an offense separate from the original complaint of sexual misconduct and will be considered independently from the underlying complaint. Individuals who believe they have been subjected to retaliation should report the conduct to the Title IX Coordinator or Executive Director of Human Resources as promptly as possible.

**INFORMAL AND FORMAL COMPLAINT PROCESS**

**Pre-Complaint Review (Informal Process)**
The purpose of the pre-complaint review is to provide an individual an opportunity to discuss privately the specifics of the complaint and to receive guidance and information on the administrative procedures followed by the Title IX Coordinator or the Executive Director of Human Resources in the event a complaint is to be filed. Complaints filed pursuant to these procedures will be addressed and resolved as promptly and as practicable after the complaint is made.

It shall be the responsibility of the Title IX Coordinator to promptly determine whether the complaint is properly classified as a possible instance of discrimination or harassment based on the complainant’s protected class status. If not properly classified, the Title IX Coordinator shall communicate such and may attempt other resolution strategies on behalf of the complainant. At any time during the initial inquiry process the complainant may:

1. Ask the Title IX Coordinator or the Executive Director of Human Resources to pursue informal or formal resolution of the matter to ensure the alleged misconduct ceases.
2. If merited, request to pursue a formal inquiry.
3. Choose not to pursue the complaint or withdrawal from the inquiry process.

**Informal Process**
Informal review and consultative processes are highly desirable means for resolving discrimination or harassment complaints. The purpose of informal complaint resolution is to encourage the reporting of complaints concerning discrimination or harassment and to facilitate satisfactory resolution of the complaint. A complainant may choose to pursue the formal complaint resolution process anytime during the informal review process.

The Title IX Coordinator shall decide whether a complaint warrants an attempt at informal or formal resolution by determining whether or not the facts of the complaint, even if found to be true, would constitute a policy violation. In some cases, a formal investigation may be
appropriate and must be pursued to assure compliance with Title IX mandates and to afford
due process to all parties involved.

The respondent may be told of the identity of the complainant at this stage. Investigation is
optional, since the emphasis is not on establishing guilt or innocence but on stopping the
alleged misconduct.

If at any point during the informal process, it is determined that a formal investigation is to be
conducted, the complainant and respondent shall have the right to present relevant information
to the Investigative Team and to receive, at the conclusion of the investigation and appropriate
review, a notification of outcome, to the extent permitted by law.

**Formal Process**
For further information on what constitutes sexual misconduct please refer to Section E
of the Student Code of Conduct:
[http://www.millersville.edu/services/judicialaffairs/files/StudentCodeofConduct.pdf](http://www.millersville.edu/services/judicialaffairs/files/StudentCodeofConduct.pdf)

**Filing a Formal Complaint**
To initiate a formal complaint, the complainant should submit a completed and signed Complaint
Form. The complainant should be able to document the following:

1. A statement of complaint.
2. The date of the alleged offense with as much specificity as possible.
3. Impact that the sexual misconduct has had on the employment or educational environment.
4. Specify the desired outcome the complainant is seeking as a result of the complaint.

The form for filing a complaint electronically is available on the Millersville University website at

**Notice of Receipt of a Formal Complaint**
After receipt of a completed Complaint Form, the Title IX Coordinator, or the Executive
Director of Human Resources, shall meet with the complainant(s) as soon as possible,
generally no later than seven (7) business days after receiving the complaint. The purpose
of this meeting is to review the complaint and clarify any issues which may be unclear.

**Notice of the Filing of a Formal Complaint to the Respondent**
The official letter of notice to a complainant(s) and respondent(s) of a filing of a formal
complaint of discrimination or harassment is referred to as the Notice of Complaint. The
Notice of Complaint will be served either personally, by regular mail, by certified mail or
electronic mail. The Notice of Complaint will include the complainants name and the
allegation(s) made. All employee (Faculty and Staff/non-student) complaints will be processed
through the current policy and their respective CBA’s.

**Investigation**
Generally, the Investigation Team for a student-related complaint will be led by investigators
designated by the Title IX Coordinator. The Executive Director of Human Resources will lead all
employee (faculty-staff/administrators) investigations and determine team membership. The
Investigation Team will review and investigate the complaint, interview the parties to it, as well as
any relevant witnesses and persons having knowledge of the situation. Both parties may
suggest witnesses and other evidence for consideration. The Investigation Team may meet as
frequently as necessary to complete the investigation. All interviews, meetings, telephone calls
and other activities relating to the complaint will be carefully documented and clearly dated by
the Investigation Team. During this process both the complainant and the respondent may be
accompanied by an advocate whose role will be advisory only; advocates will not address the
Investigative Team directly.

The fact-finding process is intended to be an internal investigation, not an adjudicatory
process; therefore, the strict rules of evidence and criminal or civil procedure applicable in the
external legal system do not apply.

After the Investigation Team has declared that the investigation is complete, they will
prepare a written report which shall include the following:

1. A statement of the findings of fact.
2. A statement of the conclusions, if any, which they have drawn.
3. Any other relevant information deemed appropriate to the findings of fact.

The report will be completed and submitted to the Title IX Coordinator for review.

Upon review and determination for the need for a hearing, the report will be submitted to the
Judicial Affairs Office for students. Faculty and staff concerns will be forwarded to the Executive
Director of Human Resources for processing.

**Notice of Outcome**

After the conclusion of an investigation and determination of a finding, the Judicial Affairs
Officer or the Title IX Coordinator shall issue an official notice of outcome letter to both the
complainant and respondent, generally no later than seven (7) business days after the
investigations conclusion, and notice of any change in results when they become final.

**Appeals**

If the student complainant and/or respondent finds the resolution or administrative action
unsatisfactory, they may file an appeal with the President or designee within five (5) days of
being advised of the outcome of the investigation.

**Suspension or Withdrawal of Complaints**

The University may suspend its investigation at any stage if the Investigative Team
receives a written resolution of the complaint agreed to by both the complainant and
respondent.

A complaint may be withdrawn at any time upon receipt of a written request from the
complainant. The respondent will be notified of the withdrawal of the complaint. If a
complainant files a complaint with an external enforcement agency or state or federal court,
the Investigative Team may continue to simultaneously investigate. In certain
circumstances as requested to accommodate state and /or federal requirements the
Investigative may suspend the processing of the complaint internally and defer the
complaint to the appropriate state or federal agency or court allowing the agency to gather
evidence. Upon completion of this process the Title IX will complete the investigation.

**Dismissal of Complaints**

A recommendation for dismissal of a complaint may be submitted to the Title IX
Coordinator if the designated Investigative Team determines that discrimination,
harassment, or retaliation has not occurred.
A recommendation for dismissal of a complaint may be submitted to the Title IX Coordinator if the Investigative Team determines that the complainant has not cooperated and the action or actions of the complainant impairs or compromises the Investigative Team’s ability to conduct an objective investigation. In such instances, where applicable, the Investigative Team may cease its investigation.

Willful false allegations by complainants or abuse of this process may result in actions and sanctions, including reprimand, suspension, demotion, or dismissal.

**Student Procedures**

**STUDENT SEXUAL MISCONDUCT VIOLATIONS OF TITLE IX**

1. Contact Millersville University’s Campus Title IX Coordinator.
2. The Director of Judicial Affairs and the Assistant Director of Judicial Affairs serve as Deputy Title IX Coordinators who work closely with the Campus Title IX Coordinator to ensure adherence to the guidelines provided in Title IX.
3. Alleged violations must be immediately reported to the Campus Title IX Coordinator or Deputy Title IX coordinators.
4. Mediation will not be used to resolve reports of sexual misconduct.
5. Our online report is available on several university webpages and when submitted is automatically submitted to the right offices via Maxient.
6. The recommended OCR model of student sexual misconduct violations will be followed.

**ADMINISTRATIVE FACT FINDING**

1. Upon notification of an alleged sexual misconduct violation, the Campus Title IX Coordinator or Deputy Title IX Coordinators will coordinate an Administrative Fact Finding process.
2. This investigation will include interviews of the complainant, the respondent, and any witnesses.
3. A report of this investigation will be submitted to the Title IX Coordinator if allegations are unsubstantiated.
4. A report of this investigation will be submitted to the Office Judicial Affairs for an Administrative Hearing if policy allegations have been substantiated. Included in the report will be a summary of the allegation, a list of university policies that may have been violated and a synthesis of the facts outlining what questions remain and elements that are in dispute or in agreement.
5. Investigators will assess the credibility of both complainant and respondent and provide an objective credibility statement based on the interviews and other facts of the case.
6. Respondents and Complainants will be informed of the outcome of the Administrative Fact Finding process.

**ADMINISTRATIVE HEARING PROCEDURES**

1. The campus disciplinary process is not a criminal trial. It is a University proceeding designed to hold students responsible for their role in violations of the Student Code of Conduct.
2. Like in all other Administrative Hearings, the University will apply a “preponderance of the evidence” standard in determining whether a violation of the student code of conduct occurred in cases of alleged sexual misconduct. A preponderance of the evidence standard simply means that it is “more likely than not” that a violation occurred. This is in contrast to "beyond a reasonable doubt," which is the higher standard of proof required for a conviction in a criminal trial.
3. The University has chosen to utilize an investigation model for resolving sexual misconduct complaints. The investigation model is non-adversarial and minimizes re-victimization by discouraging interaction between the complainant and respondent. Investigations are conducted with all involved parties separately. Pertinent notes are synthesized and compiled into a Fact Finding Report.

4. If a Code of Conduct violation is prevalent in the Fact Finding report, the respondent (also known as the accused student) will be afforded an administrative hearing by the Title IX Judicial Panel.

5. Outlined below are the additions to the existing Administrative Hearing procedures adhered to in cases of alleged sexual misconduct:

   a. Upon receipt of the substantiated allegations in the Administrative Fact Finding Report, an Administrative Hearing will be held.

   b. In cases of alleged sexual misconduct the respondent:

      i. May select an advocate to guide them through the judicial process.

      ii. A recording of the hearing, shall be made. The recording shall be property of the University.

      iii. Shall be advised of their responsibility to tell the truth before speaking to the charges.

      iv. May decline to answer questions posed during a hearing. The refusal of the respondent to answer questions shall not be considered as evidence of a violation of the Code. However such refusal may be considered in assessing credibility.

      v. Shall be allowed to introduce witness testimony, relevant evidence and his/her version of the events that resulted in the accusation of a violation of the Code of Conduct.

      vi. May question and examine the relevant statements, evidence and documents presented in the Investigative Report. The Director of Judicial Affairs, designee or Title IX Judicial Panel will determine if questions will be submitted in writing prior to the hearing.

      vii. May bring an advisor or Judicial Advocate who may consult with and advise the student/student organization but may not otherwise participate in the hearing. (See page 11 for full detail on advisors)

   c. Hearing decisions and penalties imposed shall be provided to the respondent or student organization in writing and shall include information about the student’s rights to an appeal hearing. Complainants of sexual misconduct violations shall also be notified of hearing decisions and their rights to appeal in accordance with FERPA requirements and Title IX guidelines.

   d. All hearing procedures shall be carried out in a timely fashion adhering to the following guidelines:

      i. All charges of a violation as well as the date, time and place of the hearing shall be provided in writing to the complainant, respondent or student organization.

      ii. The Title IX Judicial Panel shall consider the evidence presented within the Administrative Fact Finding Report and provided by the hearing with the respondent to determine if a violation of the Student Code of Conduct occurred. The Title IX Judicial Panel shall inform both the respondent and the complainant of the decision. If additional time is required to render a decision, the respondent and complainant shall be informed of the decision within five (5) business days of the hearing conclusion. All decisions will be communicated in writing.

      iii. The respondent and complainant have the right to an appeal in cases alleging sexual misconduct.
APPEALS IN TITLE IX SEXUAL MISCONDUCT CASES

1. A student may appeal the Administrative Hearing decision in Title IX sexual misconduct cases in writing to the University’s President or designee within five (5) class days following the decision. The President or a designee will to review the appeal and render a decision. The appeal process for represented employees will follow their specific collective bargaining agreements. Appeals for non-represented employees should be sent to the respective Vice President or next level administrator.

2. Appeals to the University President or designee must be based on one or more of the following:

   a. Alleged violations of hearing procedures.
   b. New information pertaining to the case that was not available at the time of the hearing that may substantially change the decision.
   c. Sanctions imposed were arbitrary or capricious for the violation of the Student Code of Conduct.

3. The President or designee will review the existing record and may:

   a. Uphold the findings and sanctions.
   b. Modify some or all of the findings and sanctions.
   c. Reverse all of the findings of the Administrative Hearing decision.
   d. Order a new hearing.

4. The Decision rendered by the President or designee is final.

In matters of a safety and/or security risk to the campus, the President or designee reserves the right to institute measures to protect the safety and well-being of the campus. In such matters the President or designee will have sole discretion to ensure the safety of the University, including but not limited to an interim suspension.

Campus Resources
Counseling and support services are made available to any student or employee who believes that he or she has been subjected to any form of discrimination or harassment. Students may avail themselves to counseling services through the Center for Counseling & Human Development (717) 871-7821. Employee counseling services are available through the State Employee Assistance Program (SEAP) at (800) 692-7459 or online at www.liveandwork.com - Access Code: Pennsylvania.

The following University resources are available to all members of the University community who seek information about University policies on equal employment opportunity, standards of conduct, informal and formal mechanisms for resolving complaints, and resources for complainants and respondents. However, the Title IX Coordinator, or the Executive Director of Human Resources, must be contacted in order to commence either a formal or an informal process to any alleged complaints. These resources for informational purposes include, but are not limited to the following:
### CAMPUS RESOURCES

<table>
<thead>
<tr>
<th>CAMPUS RESOURCES</th>
<th>LOCATION</th>
<th>PHONE</th>
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<tbody>
<tr>
<td>President’s Office</td>
<td>Biemesderfer Executive Center</td>
<td>(717) 871-7001</td>
</tr>
<tr>
<td>Title IX Coordinator</td>
<td>Student Memorial Center Room 107B</td>
<td>(717) 871-4100</td>
</tr>
<tr>
<td>Executive Director of Human Resources</td>
<td>Dilworth Building, Human Resources</td>
<td>(717) 871-4950</td>
</tr>
<tr>
<td>Provost and Vice President for Academic Affairs</td>
<td>Biemesderfer Executive Center</td>
<td>(717) 871-7555</td>
</tr>
<tr>
<td>Vice President for Development &amp; Alumni Relations</td>
<td>Duncan Alumni House</td>
<td>(717) 871-7500</td>
</tr>
<tr>
<td>Vice President for Student Affairs &amp; Enrollment Management</td>
<td>Lyle Hall</td>
<td>(717) 871-5714</td>
</tr>
<tr>
<td>Vice President for Finance &amp; Administration</td>
<td>Dilworth Building</td>
<td>(717) 871-4087</td>
</tr>
<tr>
<td>Dean, College of Education &amp; Human Services</td>
<td>Stayer Education Center</td>
<td>(717) 871-7333</td>
</tr>
<tr>
<td>Dean, College of Arts Humanities &amp; Social Sciences</td>
<td>McComsey Hall</td>
<td>(717) 871-7160</td>
</tr>
<tr>
<td>Dean, College of Science &amp; Technology</td>
<td>Caputo Hall</td>
<td>(717) 871-4292</td>
</tr>
<tr>
<td>Dean, College of Graduate Studies &amp; Adult Learning</td>
<td>Lyle Hall</td>
<td>(717) 871-7619</td>
</tr>
<tr>
<td>Director, Office of Judicial Affairs</td>
<td>Student Memorial Center</td>
<td>(717) 871-5841</td>
</tr>
<tr>
<td>Office of the Chancellor</td>
<td>Dixon University Center 2986 N. 2nd St. Harrisburg, PA 17110</td>
<td>(717) 720-4010</td>
</tr>
</tbody>
</table>

**External Enforcement Agencies** an individual who files a complaint alleging discrimination, harassment or retaliation, has the option of pursuing external enforcement. At any time during the complaint process, a complainant may choose to file a complaint with a court or external public agency responsible for enforcing the laws against discrimination and harassment, such as:

**Equal Employment Opportunity Commission (EEOC)** (800) 669-4000
EEOC Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
[www.eeoc.gov](http://www.eeoc.gov)

**Office for Civil Rights (OCR), U.S. Department of Education** (215) 656-8541
OCR Philadelphia Office, The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
[www2.ed.gov](http://www2.ed.gov)
Pennsylvania Human Relations Commission (PHRC) (717) 787-9780
PHRC Harrisburg Regional Office,
333 Market Street, 8th Floor
Harrisburg, PA 17104-2210
www.phrc.state.pa.us

PREVENTION AND EDUCATION

The prevention of discrimination, harassment, retaliation, and the establishment of effective procedures with due concern for everyone involved requires a comprehensive educational plan. The University provides information concerning:

1. Definitions of harassment, discrimination, and retaliation.
2. Examples of incidents of discrimination or harassment.
3. Sources of support and information for complainants and respondents.
4. Mediation and resolution resources.

Faculty, staff, administrators, and students must share joint responsibility for creating and maintaining an environment free from discrimination and harassment; therefore, the University provides an online harassment prevention tutorial.

Vice Presidents, Deans, Directors, Managers/Supervisors and/or Department Chairs are required to discuss these procedures and issues with students, faculty, and staff annually.