

**PASSHE** **CENTER CITY**  
Philadelphia

**2014 ANNUAL SECURITY REPORT**



# Table of Contents

## The PASSHE Center City campus 2014 Annual Report of Campus Security Policies and Procedures

Introduction.....	4
PASSHE Center City campus Student/Employee Population – Fall Semester 2013.....	5
Locations where PASSHE Center City campus is required to report Clery Crimes.....	5
Locations where PASSHE Center City campus is not required to report Clery Crimes.....	6
Clery-Designated Crime Definitions.....	7
Uniform Crime Reporting Definitions – Part I Offenses.....	7
Uniform Crime Reporting Definitions – Part II Offenses.....	8
Reporting Crimes.....	10
Who is responsible for campus security? .....	10
What is the PASSHE Center City campus policy on encouraging the reporting of crime? .....	10
What is a Campus Security Authority?.....	10
Voluntary Confidential Reporting of Crimes – On-campus locations.....	10
What is the enforcement authority of Public Safety personnel? .....	11
What is the PASSHE Center City campus policy on reporting criminal incidents to state and local police? .....	11
What are the procedures for students and others to report criminal activity or other emergencies occurring on campus and how does the PASSHE Center City campus respond to such reports?.....	11
Daily Crime Log.....	11
How does the PASSHE Center City campus notify the campus community of emergency response and evacuation procedures? .....	12
How and when does PASSHE Center City campus inform the campus about an Immediate Threat and what is the WCU policy on notifying the campus community of an emergency?.....	12
What is the PASSHE Center City campus policy on preparation of the Annual Security Report? .....	12
What is the PASSHE Center City campus policy about access to the University’s facilities and programs by students, employees, guests and other individuals? .....	13
What type of student housing is available at PASSHE Center City campus? .....	13
What security considerations does PASSHE Center City campus use in the maintenance of campus facilities, including landscaping, grounds-keeping and outdoor lighting? .....	13
What is the PASSHE Center City campus policy on possession, use or sale of alcohol and illegal drugs.....	13
What types of drug and alcohol abuse educational programs are offered at PASSHE Center City campus? .....	13
What are the penalties for those criminally charged with the abuse of drugs and alcohol? .....	13
What is the PASSHE Center City campus policy on possession and use of weapons by security personnel or others?.....	13
What is the PASSHE Center City campus policy about employees or students with criminal records?...	13
What types of programs are offered to educate and prevent sex offenses and what is the PASSHE Center City campus policy for reporting these offenses and assisting the victims of reported sex crimes?.....	14
Information regarding registered sex offenders can be found at.....	14
What is the PASSHE Center City campus policy on investigating missing students who reside in on-campus housing? .....	14
What is the PASSHE Center City campus policy concerning monitoring off-campus crime? .....	14

How does PASSHE Center City campus report incidents for campus residential facilities? .....	14
How does PASSHE Center City campus report incidents for non-campus properties? .....	14
How does PASSHE Center City campus report incidents for public properties? .....	14
How does PASSHE Center City campus respond to crimes involving bias? .....	15
PASSHE Center City Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as Amended by the Violence Against Women Reauthorization Act of 2013.....	16
Appendix A – PASSHE Center City Clery Act Statistics .....	37
PASSHE Center City campus - Arrest Statistics.....	37
PASSHE Center City campus - Clery Act Crime Statistics.....	38
PASSHE Center City campus - Hate Crime Reporting –On Campus.....	39
PASSHE Center City campus - Hate Crime Reporting –Public Property.....	40
PASSHE Center City campus - Hate Crime Reporting – Non-Campus.....	41
PASSHE Center City campus – Uniform Crime Reporting – Part I Offenses.....	42
PASSHE Center City campus – Uniform Crime Reporting – Part II Offenses.....	43
Appendix B – PASSHE Center City Mass Communications Policy.....	44
Appendix C – Definition of Terms as defined by Pennsylvania State criminal statutes.....	48

**This publication can be found on the PASSHE Center City campus web site at  
<http://www.passhecentercity.org>**

## Introduction

**The PASSHE Center City campus is located in the Mellon Independence Center, 701 Market St., Concourse Level, Philadelphia, PA 19106; phone 267-386-3001.** The PASSHE Center City campus is one multi-university center. Cheyney University, East Stroudsburg University, Millersville University and West Chester University currently participate in the PASSHE Center City campus. Admissions, Financial Aid, Tuition and Fees questions should be directed to the individual universities.

Cheyney University <http://www.cheyney.edu/>  
East Stroudsburg University <http://www4.esu.edu/>  
Millersville University <http://millersville.edu/>  
West Chester University <http://www.wcupa.edu/>

Safety on all campuses of higher education is a natural source of concern for parents, students, and employees. No campus is entirely isolated from crime. The PASSHE Center City campus is no exception. However, the PASSHE Center City campus has developed policies and implemented procedures, in conjunction with the Mellon Independence Center, to increase safety and security awareness and to provide precautionary measures for all campus community members. This publication is designed to provide an overview of those safety and security measures.

Participating universities of the PASSHE Center City campus, as recipients of federal Title IV student financial aid, are required to adhere to the provisions of the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*, commonly referred to as the *Clery Act*. One provision of the *Clery Act* is that all postsecondary institutions receiving federal Title IV financial aid must publish an annual security report disclosing campus security policies and the most recent three years crime statistics. In compliance, this report is prepared by the participating universities and made available to the PASSHE Center City campus community and others, with the cooperation of local law enforcement agencies and various University offices. This publication is distributed in accordance with the *Pennsylvania College and University Security Information Act (24 P. S. § § 2502-1—2502-5)* and the following federal statues: *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Section 486(e) of Public Law: 105-244* and *The Accuracy in Campus Crime Reporting Act of 1997*.

**University Student/Employee Population – Fall Semester 2013**

Student enrollment and employee figures are based on actual student head count. All figures are calculated at the beginning of the fall semester each year.

University	Undergraduate	Graduate
Cheyney University	108	29
East Stroudsburg University	9	5
Millersville University	0	0
West Chester University	3	32

*PASSHE Center City Campus*

<b>Total Enrollment of all four Universities</b>	
Undergraduate	120
Graduate	66
Total	186
Non-Student Employees	5
<b>Total Center City Campus</b>	<b>191</b>

<b>Total student / employee population</b>	<b>191</b>
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**Geographic locations for which the PASSHE Center City campus is required to report crime statistics or issue timely warnings and emergency notifications under the Clery Act.**

The PASSHE Center City Philadelphia campus is required to report crime statistics for Clery-designated crimes and to issue timely warnings for those crimes that represent a severe and continuing threat in the following geographic locations: *on campus, public property and non-campus buildings and property.*

**On campus:**

*Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and*

*Any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as food or other retail vendor).*

**Public property:**

The term "public property" means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

For PASSHE Center City Philadelphia campus, streets, alleys, sidewalks, and parks that are adjacent to campus or that bisect campus, would be included as *public property*.

**Non-campus buildings or property:**

Any building or property owned or controlled by a student organization recognized by the institution; and any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

**Geographic locations for which the PASSHE Center City campus is not required to report crime statistics or issue timely warnings**

The PASSHE Center City campus is not required to report crime statistics or issue timely warnings for Clery-designated crimes that occur off campus, with the exception of those crimes committed on *public property* or in (on) *non-campus buildings or property*, as defined and described above.

However, the University recognizes that in certain cases timely warnings, even if not required by the *Clery Act*, may benefit the campus community. The following criteria must be met for the University to issue a timely warning for an off-campus crime that does not require a timely warning under the *Clery Act*.

1. The crime is a murder, rape, or other serious and violent assault, or the local municipality requests that the University issue a timely warning.
2. The crime occurred in a geographic area frequented by PASSHE Center City campus students.
3. The crime represents a continuous threat to the PASSHE Center City campus community

**GRADUATE!**  
PHILADELPHIA





## Clery-designated Crime Definitions

The PASSHE Center City campus is required to report crime statistics as defined by the Clery Act for the following crimes if the crimes are reported and occur in geographic locations as defined above.

**Murder/Non-Negligent Manslaughter** – The killing of one human being by another.

**Negligent Manslaughter** – The killing of another person through gross negligence.

**Sex Offenses** – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

**Sex Offenses Non-Forcible** – Unlawful, non-forcible sexual intercourse. Specifically these offenses are: incest and statutory rape.

**Robbery** – The taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault** – An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

**Burglary** – The unlawful entry of a structure to commit a felony or a theft.

**Motor Vehicle Theft** – The theft or attempted theft of a vehicle.

**Arson** – Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

## Uniform Crime Reporting Definitions

*Under the Pennsylvania College and University Security Information Act*, PASSHE Center City campus is required to report crime statistics as defined by the Uniform Crime Reporting Program for the following crimes if the crimes are reported and occur on the property owned by the university.

The Uniform Crime Reporting (UCR) program divides offenses into two groups, Part I and Part II crimes. The Philadelphia Police Department submits information on the number of Part I offenses known to law enforcement; those offenses cleared by arrest or exceptional means; and the age, sex, and race of persons arrested for each of the offenses.

### The Part I offenses are:

**Murder and non-negligent manslaughter** — The willful (non-negligent) killing of one human being by another. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, and accidental deaths are excluded. The program classifies justifiable homicides separately and limits the definition to: (1) the killing of a felon by a law enforcement officer in the line of duty; or (2) the killing of a felon, during the commission of a felony, by a private citizen. b.) Manslaughter by negligence: the killing of another person through gross negligence. Traffic fatalities are excluded.

**Rape** —The carnal knowledge of a 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.

**Robbery** —The taking or attempted taking of anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated assault** — An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.

**Burglary (breaking or entering)** — The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

**Larceny-theft (except motor vehicle theft)** — The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket-picking, or the stealing of any property or article that is not taken by force and violence or by fraud. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

**Motor vehicle theft** — The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on land surface and not on rails. Motorboats, construction equipment, airplanes, and farming equipment are specifically excluded from this category.

**Arson** —Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**The Part II offenses are:**

**Other assaults (simple)** —Assaults and attempted assaults which are not of an aggravated nature and do not result in serious injury to the victim.

**Forgery and counterfeiting** —The altering, copying, or imitating of something, without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine; or the selling, buying, or possession of an altered, copied, or imitated thing with the intent to deceive or defraud. Attempts are included.

**Fraud** — The intentional perversion of the truth for the purpose of inducing another person or other entity in reliance upon it to part with something of value or to surrender a legal right. Fraudulent conversion and obtaining of money or property by false pretenses, confidence games and bad checks, except forgeries and counterfeiting, are included.

**Embezzlement** —The unlawful misappropriation or misapplication by an offender to his/her own use or purpose of money, property, or some other thing of value entrusted to his/her care, custody, or control.

**Stolen property; buying, receiving, possessing** — Buying, receiving, possessing, selling, concealing, or transporting any property with the knowledge that it has been unlawfully taken, as by burglary, embezzlement, fraud, larceny, robbery, etc. Attempts are included.

**Vandalism** —To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing,



breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law. Attempts are included.

**Weapons; carrying, possessing, etc.** —The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. Attempts are included.

**Prostitution and commercialized vice** — The unlawful promotion of or participation in sexual activities for profit, including attempts.

**Sex offenses** (except forcible rape, prostitution, and commercialized vice) — Statutory rape, offenses against chastity, common decency, morals, and the like. Attempts are included.

**Drug abuse violations** — The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The following drug categories are specified: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics —manufactured narcotics that can cause true addiction (Demerol, Methadone); and dangerous non-narcotic drugs (Barbiturates, Benzedrine).

**Gambling** —To unlawfully bet or wager money or something else of value; assist, promote, or operate a game of chance for money or some other stake; possess or transmit wagering information; manufacture, sell, purchase, possess, or transport gambling equipment, devices, or goods; or tamper with the outcome of a sporting event or contest to gain a gambling advantage.

**Offenses against the family and children** —Unlawful nonviolent acts by a family member (or legal guardian) that threaten the physical, mental, or economic well-being or morals of another family member and that are not classifiable as other offenses, such as Assault or Sex Offenses. Attempts are included.

**Driving under the influence** —Driving or operating a motor vehicle or common carrier while mentally or physically impaired as the result of consuming an alcoholic beverage or using a drug or narcotic.

**Liquor laws** —The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness. Federal violations are excluded.

**Drunkenness** —To drink alcoholic beverages to the extent that one's mental faculties and physical coordination are substantially impaired. Excludes driving under the influence.

**Disorderly conduct** —Any behavior that tends to disturb the public peace or decorum, scandalizes the community, or shocks the public sense of morality.

**Vagrancy** —The violation of a court order, regulation, ordinance, or law requiring the withdrawal of persons from the streets or other specified areas; prohibiting persons from remaining in an area or place in an idle or aimless manner; or prohibiting persons from going from place to place without visible means of support.

**All other offenses** —All violations of state or local laws not specifically identified as Part I or Part II offenses, except traffic violations.

### **Reporting of Crimes:**

#### **Who is responsible for campus security?**

The Philadelphia Police Department is responsible for campus law enforcement. The Mellon Independence Center is responsible for building security, including the PASSHE Center City campus.

**Philadelphia Police Headquarters 750 Race Street, Philadelphia, PA 19160**

**Tips call: 215-686-TIPS or text PPDTIP**

**Emergencies call: 911**

**Non-emergencies call: 311**

#### **What is the PASSHE Center City campus policy on encouraging the reporting of crimes?**

The PASSHE Center City campus strongly encourages all faculty, staff, students and guests to report any illegal or suspicious activity in a timely manner to the Philadelphia Police department. Requests will be submitted to the Philadelphia Police Department to provide crime statistics for inclusion in to the PASSHE Center City campus Annual Security Report. Additionally, any situation or incident that involves a significant emergency or dangerous situation, should be reported to the Director of the PASSHE Center City campus (call: 267-386-3003) for an assessment of whether a timely warning or emergency notification should be sent out to the PASSHE Center City campus community.

#### **What is a Campus Security Authority (CSA)?**

A campus security authority, commonly refer to as a CSA is a person referred to by the Clery Act. CSA's are a vital part of data collection for the annual safety and security report.

The Clery Act requires PASSHE Center City to provide an annual safety and security report. In addition to input from law enforcement, certain staff positions are designated as Campus Security Authorities (CSA) for the purpose of providing information for this report. CSA's are usually found in departments responsible for, but not limited to, student and campus activities, safety/security, discipline, housing, athletics, human resources or judicial proceedings. This designation also includes any individual who has been specified by the reporting institution to receive and report offenses. PASSHE Center City has identified all PASSHE Center City personnel and faculty working at the campus as CSA's.

CSA's are responsible for reporting the number of crimes and incidents as described in the Clery Act that are reported to them. CSA's are then required to report the reports they received to the Director of PASSHE Center City. These numbers are then included in the federally mandated annual Clery Report, which is distributed every year by October 1.

**Those incidents reported to pastoral and professional counselors are not included in campus crime statistics.**

#### **Voluntary Confidential Reporting of Crimes:**

For those wishing to report a criminal incident, whether a victim, witness, or third party, reports may be made in confidence to the following offices where further options will be discussed with the reporting party.

**PASSHE Center City Director** – Mellon Independence Center, 701 Market St., Concourse Level, Philadelphia, PA 19106, Phone: 267-386-3003

### **What is the enforcement authority of Public Safety personnel?**

PASSHE Center City campus does not provide campus police or security personnel for the campus. Philadelphia Police provide police services for the campus and a private building security contractor provides security for the Mellon Independence Center, including the PASSHE Center City campus.

The Philadelphia Police Department is the nation's fourth largest police department, with over 6600 sworn members and 800 civilian personnel. The department is the primary law enforcement agency responsible for serving Philadelphia county, extending over 140 square miles in which approximately 1.5 million reside.

### **What is the PASSHE Center City campus policy on reporting criminal incidents to state and local police?**

All crimes should be reported to the Philadelphia Police Department 750 Race St, Philadelphia, PA (215) 686-3053 (emergencies call: 911).

Crime statistics and arrest information for offenses occurring on PASSHE Center City Philadelphia campus should be reported directly to the Philadelphia Police department. The Philadelphia Police Department is the local enforcement agency. The Philadelphia Police Department reports crime statistics to the State via the Uniform Crime Reporting (UCR) system.

### **What are the procedures for students and others to report criminal activity or other emergencies occurring on campus and how does the PASSHE Center City campus respond to such reports?**

The campus community should report criminal activity, fires or medical emergencies to the Philadelphia 911 center, by dialing 911. The Philadelphia 911 Center maintains a 24-hour dispatch center to answer all calls for assistance. Upon receiving a request for assistance, an officer and any other appropriate personnel will be immediately dispatched to the location.

#### **Director PASSHE Center City campus:**

Christina Dennis  
Mellon Independence Center  
701 Market Street, Concourse Level  
Philadelphia, PA. 19106  
267-386-3003

#### **Philadelphia Police Headquarters:**

750 Race Street, Philadelphia, PA 19160  
Tips call: 215-686-TIPS or text PPDTIP  
Emergencies call: 911  
Non-emergencies call: 311

#### **Mellon Independence Center Building Security:**

Allied Barton Security Department  
701 Market Street West lobby entrance Philadelphia, PA 19106  
215-238-9777 or 215-238-9306

#### **Daily Crime Log:**

PASSHE Center City campus does not have a campus police or security department; as a result no Daily Crime Log is created.

**How does the PASSHE Center City campus notify the campus community of emergency response and evacuation procedures?**

Upon a receipt of an emergency, the PASSHE Director will provide necessary information pertaining to emergency response and/or evacuation details. In certain emergencies, the building security may assist in the evacuation effort. Testing and drills of the evacuation procedures are the responsibility of the property owner or agent of Mellon Independence Center.

**How and when does PASSHE Center City campus inform the campus about an Immediate Threat and what is the PASSHE Center City campus policy on notifying the campus community of an emergency?**

The PASSHE Center City Emergency Notification and Timely Warning policy dictates that upon receipt of a report of a crime or emergency, the director will determine if the report represents an immediate threat or continuing danger to the campus. In addition to having crimes and other emergencies being reported to the Philadelphia Police Department, reports should be made to the PASSHE Center City director. Should it be determined, by the Director or their designee that an immediate threat or continuing danger is present the Director or their designee will notify the campus community through an emergency text and/or posted notices throughout the campus. The campus community is encouraged to sign up to receive the emergency texts by registering at: <http://www.e2campus.com/> or through PASSHE Center City campus at <http://www.passhecentercity.org/emergency.php>

**Post Emergency Communication:**

The PASSHE Center City campus Director will issue an "all clear" message to convey the campus's return to normal operations to the campus via the text message system and postings placed throughout the campus. Details regarding the incident will be communicated on the PASSHE Center City campus's homepage.

**Everyone is encouraged to become familiar with the evacuation plans that are posted in Mellon Independence Center building.**

If you are advised to evacuate the building by the activation of the fire alarm or verbally by emergency personnel or another building administrator, please vacate immediately. Evacuate from below level and upper floors by using designated stairways and do not use elevators. If you have special assistance needs, become familiar with the closest "Area of Rescue Assistance" and someone will help you to evacuate. If possible to do so safely, take your belongings with you and do not return to the building once you have left for any reason.

Fire and evacuation drills are conducted by the property owner or agent of Mellon Independence Center. The purpose of evacuation drills is to prepare building occupants for an organized evacuation in case of a fire or other emergency. During the drill, occupants practice drill procedures and familiarize themselves with the location of exits and the sound of the fire alarm. In addition to educating the occupants of each building about the evacuation procedures during the drills, the process also provides emergency personnel an opportunity to test the operation of fire alarm system components.

All fire, response and evacuation drills and test are the responsibility of the property owner or agent of Mellon Independence Center.

**What is the PASSHE Center City Philadelphia campus policy for the preparation of the Annual Security Report?**

The PASSHE Center City campus prepares this report to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. The full text of this report is located on the campus's

web site at <http://www.passhecentercity.org/> This report is prepared in cooperation with the Philadelphia Police Department, Mellon Independence Center and participating universities.

**What is the PASSHE Center City campus policy about access to the campus facilities and programs by students, faculty, staff and other individuals?**

Mellon Independence Center building security requires identification and purpose of visit prior to entering the elevator or stairwell to gain access to the PASSHE Center City campus.

**What type of student housing is available at PASSHE Center City campus?**

No residential facilities are provided at the campus.

**What security considerations does PASSHE Center City campus use in the maintenance of campus facilities, including landscaping, grounds-keeping and outdoor lighting?**

These areas are the responsibility of the Mellon Independence Center.

**What is the PASSHE Center City campus policy on possession, use or sale of alcohol and illegal drugs?**

The campus complies with the federal, state, and local laws including those that regulate the possession, use, and sale of alcoholic beverages and other controlled substances. Those who use, sell, exchange, consume, or possess alcoholic beverages, illegal drugs, or drug paraphernalia on PASSHE Center City campus will be dealt with in accordance with the Commonwealth, federal and local laws as well as the individual participating Universities Student Code of Conduct.

**What types of drug and alcohol abuse educational programs are offered at PASSHE Center City campus?**

No drug or alcohol programming is offered at the PASSHE Center City campus

**What are the penalties for those criminally charged with the abuse of drugs and alcohol?**

Anyone in possession of illegal drugs or paraphernalia can be charged with a misdemeanor or felony offense, depending on the illegal substances found. Penalties for a first offense upon conviction can include fines of no less than \$500 and possible imprisonment up to 15 years.

Anyone who purchases, consumes, possesses or transports alcoholic beverages while being under the age of 21 can be charged with a summary offense. Penalties upon conviction of a first offense can include fines up to \$300 and will involve the suspension of driving privileges for 90 days. Anyone found to be furnishing alcohol to minors can be charged with a misdemeanor offense. Penalties upon conviction can include fines of no less than \$1,000.

**What is the PASSHE Center City campus policy on possession and use of weapons by security personnel or others?**

Philadelphia Police officers and other law enforcement officials are authorized to carry firearms and are certified in their use on an annual basis. Mellon Independence Center security officers do not carry firearms.

Unauthorized persons are prohibited from possessing weapons of any kind on PASSHE Center City campus property; violators will be subject to criminal prosecution.

**What is the PASSHE Center City campus policy about employees or students with criminal records?**

As part of the pre-employment process, Human Resources at participating universities, conduct background checks in the form of specific criminal and consumer reporting verifications for all employee recruitments except for work-study students. Conviction of a criminal offense does not bar one from employment in all cases. Each case is considered individually on its merits. If the University administration discovers that a current employee has been convicted of a criminal offense, the University

reserves the right to review the conviction in relation to the employee's current position and, if warranted, take action to either reassign or dismiss the employee.

**What types of programs are offered to educate and prevent sex offenses and what is the PASSHE Center City campus policy for reporting these offenses and assisting the victims of reported sex crimes?**

No educational or preventive programs are provided at the PASSHE Center City campus. Participating universities provide these programs at their main campuses.

All sex offense crimes should be reported to the Philadelphia Police department (dial 911). For the purposes of Title IX reporting, confidential reports should be made to the PASSHE Center City campus Director/Title IX Coordinator (**call: 267-386-3003**). The Director will provide the information to the participating universities' Title IX coordinators. Participating universities' Title IX coordinators are required under law to complete an investigation for each reported incident. The Director will provide contact information for participating universities victim services, upon request.

Information regarding registered sex offenders can be found at;  
<http://www.pameganslaw.state.pa.us/>

**What is the PASSHE Center City campus policy on investigating missing students who reside in on-campus housing?**

No residential facilities are provided at the PASSHE Center City campus. A missing student policy is not required. Reports of missing students received by the Philadelphia Police department will result in a police investigation as outlined by the Pennsylvania Title 18 Section 2908(a) Missing Children and 42 U.S.C . 5779(a) Section 3701(a) Suzanne's Law.

**What is the PASSHE Center City campus policy concerning monitoring off-campus crime?**

Crime statistics are requested from the Philadelphia Police department for geographic areas identified as non-campus or public property for inclusion into the PASSHE Center City campus Annual Security Report.

**How does PASSHE Center City campus report incidents for campus residential facilities?**

No residential facilities are provided at PASSHE Center City campus.

**How does PASSHE Center City campus report incidents for non-campus property?**

Statistics for non-campus areas are requested from the Philadelphia Police Department and Mellon Independence Center.

**How does PASSHE Center City campus report incidents for public property?**

Statistics for public property areas are requested from the Philadelphia Police Department and Mellon Independence Center.

### **How does PASSHE Center City campus respond to crimes involving bias?**

All crimes involving bias should be reported to the Philadelphia Police department (dial 911). For the purposes of participating universities reporting, reports should also be made to the PASSHE Center City campus Director (**call: 267-386-3003**). The Director will provide the information to the participating universities. The Director will provide contact information for participating universities victim services, upon request.





**PASSHE Center City campus JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT, AS AMENDED BY THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013**

Student, employees, prospective students and prospective employees are encouraged to review the PASSHE Center City Campus Annual Security Report in addition to their host University's Annual Security Report for additional policy, procedure and training information as required under the Violence Against Women Reauthorization Act.

<http://www.passhecentercity.org/>

<http://www.cheyney.edu/public-safety/documents/2012CampusSecurityandFireReport-Final.pdf>

[http://www4.esu.edu/about/offices/police/documents/pdf/annual\\_publication.pdf](http://www4.esu.edu/about/offices/police/documents/pdf/annual_publication.pdf)

<http://www.millersville.edu/police/police/stats.php>

<http://www.wcupa.edu/dps/Clery.pdf>

PASSHE Center City Campus does not discriminate on the basis of gender in its educational programs and sexual harassment and sexual violence are types of gender discrimination. Other acts can also be forms of gender-based discrimination and are also prohibited, whether sexually based or not, and include dating violence, domestic violence, and stalking. As a result, PASSHE Center City Campus issues this statement of policy to inform the community of the PASSHE Center City Campus comprehensive plan addressing sexual misconduct, educational programs, and procedures that address sexual assault, domestic violence, dating violence, and stalking, whether the incident occurs on or off campus and when it is reported to a PASSHE Center City Campus official. In this context, PASSHE Center City Campus prohibits the offenses of domestic violence, dating violence, sexual assault and stalking and reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the PASSHE Center City Campus community.

For a complete copy of PASSHE Center City Campus Sexual Assault and Relationship Violence what everyone needs to know, visit:

<http://www.passhecentercity.org/docs/PASSHECenterCitySexualAssaultBooklet.pdf>

## **A. Definitions**

Below are the terms and definitions as provided by the Department of Education and from the State of Pennsylvania criminal statutes.

### **Department of Education definitions:**

**Sexual Assault:** "Sexual assault" means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the National Incident-Based Reporting System (NIBRS). A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

**Rape** is defined as 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.

**Fondling** is defined as the touching of the private parts of another person for the purposes 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 incapacity.

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

**Statutory Rape** is defined a non-forcible sexual intercourse with a person who is under the statutory age of consent.

**Domestic Violence:** The term “domestic violence” means 1) Felony or misdemeanor crimes of violence committed—

- (i) By a current or former spouse or intimate partner of the victim;
- (ii) By a person with whom the victim shares a child in common;
- (iii) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- (iv) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- (v) 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 in which the crime of violence occurred.

2) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Dating Violence:** The term “dating violence” means violence committed by a person

1) Who is or has been in a social relationship or a romantic or intimate nature with the victim and

2) The existence of such a relationship shall be based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition-

(i) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(ii) Dating violence does not include acts covered under the definition of domestic violence.

For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Stalking:** The term “stalking” means 1) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (i) fear for the person’s safety or the safety of others; or
- (ii) Suffer substantial emotional distress.

2) For the purposes of this definition—

(i) Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

(ii) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(iii) Reasonable persons means a reasonable person under similar circumstances and with similar identities to the victim.

3) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

### **Consent**

Within the context of sexual activity, consent is defined as an informed decision made freely and actively by all parties. Conduct will be considered “without consent” if no clear consent, verbal or nonverbal, is given. Because sexual misconduct is defined as sexual activity that is undertaken without consent, each participant must obtain and give consent to each sexual act.

Consent is an affirmative decision to engage in mutually acceptable sexual activity, and consent is given by clear actions or words. People are strongly encouraged to talk with each other before and during any sexual interaction. Relying solely upon non-verbal communication can lead to miscommunication.

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.

People with mental disabilities cannot give consent to sexual activity if they cannot appreciate the fact, nature, or extent of the sexual situation in which they find themselves. The mental disability of the victim must be known (or reasonably knowable) to the non-disabled sexual partner, in order to hold them responsible for the violation.

The following are clarifying points:

- Consent is required each and every time there is sexual activity;
- At any and all times when consent is withdrawn or not verbally agreed upon, the sexual activity must stop immediately;
- Consent to some levels of sexual activity does not imply consent to all levels of sexual activity. Each new level of sexual activity requires consent;
- The person(s) who initiate(s) a new level of sexual activity is responsible for asking for consent;
- A current or previous dating or sexual relationship with the initiator (or anyone else) does not constitute consent;
- Being intoxicated does not diminish one’s responsibility to obtain consent;
- Bodily movements and non-verbal responses such as moans are not consent;
- Silence, passivity, or lack of active resistance is not consent;

**Definition of terms as defined by Pennsylvania State criminal statutes are found in Appendix C:**

### **B. Education and Prevention Programs**

PASSHE Center City Campus does not currently have any education and prevention programs available. For education and prevention programs students should see their host university’s for information.

### **C. Procedures for Reporting a Complaint**

PASSHE Center City has procedures in place that are sensitive to those who report sexual assault, domestic violence, dating violence, and stalking. This includes informing individuals about their right to file criminal charges, as well as the availability of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services on and/or off campus. In addition, remedies to prevent contact between a complainant and an accused party, such as academic, transportation and working accommodations, may be provided if reasonably available. The PASSHE Center City campus will make such accommodations, if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to the Philadelphia Police Department. Students, employees, and third parties should contact the Title IX Coordinator, Christina Dennis, Director of the Office PASSHE Center City, 267-386-3003, [cdennis@passhe.edu](mailto:cdennis@passhe.edu)

Students and employees should know that reporting to the Title IX Coordinator means that PASSHE Center City has a duty to assess the information provided and may have to investigate the complaint or otherwise determine what happened. PASSHE Center City would like the consent of the complainant to be able to move forward with investigating and resolving the complaint, but there are times when the safety of the greater community outweighs the victim's request for confidentiality. Hence, when an employee or student reports to the Title IX Coordinator or any other responsible employee, the information will be kept as private as possible but cannot be guaranteed to be confidential.

In Pennsylvania, forensic evidence may be collected from your body even if you chose not to make a report to law enforcement. A forensic exam is conducted by a sensitive and highly trained SANE nurse (Sexual Assault Nurse Examiner) and students and employees may contact the Philadelphia Sexual Assault Response Center (PSARC). The forensic medical exams are conducted at PSARC. Call 911 or Special Victims unit at 215-685-3251 and they will take you to the medical center for an examination. Even if you do not want to file a police report or are not sure the police will still need to escort you to the center for the forensic medical exam. It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours so that evidence may be preserved that may assist in proving that the alleged criminal offense occurred/or is occurring or may be helpful in obtaining a protection order. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to the host University hearing boards/investigators or police. Although the PASSHE Center City campus strongly encourages all members of its community to report violations of this policy to law enforcement, it is the victim's choice whether or not to make such a report and victims have the right to decline involvement with the police. The PASSHE Center City campus will assist any victim with notifying local police if they so desire. To report an incident that occurred on campus, employees and students should contact the Philadelphia Police Department 6th District at (215-686-3060), dial 911, or contact the police in the area where the assault took place. Criminal charges can be filed against any type of perpetrator, including non-University members. Criminal charges of sexual assault are entirely separate from violations of the Student Code of Conduct, which only applies to PASSHE Center City students. Filing a formal report with the police is necessary when a victim would like to initiate a criminal investigation by the police. Perpetrators can receive punishment up to and including jail time. Anyone who has been sexually assaulted may choose to pursue both criminal prosecution and University disciplinary processes.

## **Local police agencies are as follows:**

Philadelphia Police Department 6<sup>th</sup> District - 235 N. 11th St. Philadelphia, PA 19107 (215)-686-3060

If you have been the victim of domestic violence, dating violence, sexual assault, or stalking, you should report the incident promptly to the Title IX Coordinator, by calling, writing or coming into the office to report in person and to campus police (if the victim so desires.) The PASSHE Center City campus will provide resources (on campus, off campus or both), to include medical, health, counseling, legal assistance, victim advocacy and visa and immigration assistance. If applicable to persons who have been victims of sexual assault, domestic violence, dating violence, or stalking, the PASSHE Center City campus will apply appropriate disciplinary procedures to those who violate this policy. The procedures set forth below are intended to afford a prompt response to charges of sexual assault, domestic or dating violence, and stalking, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, he or she nevertheless should consider speaking with Philadelphia Police Department or other law enforcement to preserve evidence in the event that the victim changes her/his minds at a later date.

If a report of domestic violence, dating violence, sexual assault or stalking is reported to the PASSHE Center City campus, below are the procedures that the PASSHE Center City Campus will follow as well as a statement of the standard of evidence that will be used during any judicial hearing on campus arising from such a report:

### **Incident Being Reported:**

Procedure PASSHE Center City Campus (PASSHECCC) Will Follow:

- Evidentiary Standard

### **Sexual Assault**

- Depending on when reported PASSHECCC will provide complainant with access to medical care
- PASSHECCC will assess immediate safety needs of complainant
- PASSHECCC will assist the complainant to report a SEXUAL ASSAULT/RAPE to the Philadelphia Police Department, Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested
- PASSHECCC will provide complainant with information regarding on and off campus services/providers
- PASSHECCC will assess the need to implement interim or long-term protective measures, such as housing changes, change in class schedule, "No Contact/Stay Away" directives between both parties if reasonably available
- PASSHECCC will provide "No Trespass" directives or an "Interim Suspension" to the respondent, if deemed appropriate
- PASSHECCC will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints
- PASSHECCC will receive input from the complainant on their desire to move forward with Student Code of Conduct charges and/or participate in a hearing
- PASSHECCC will inform the complainant and respondent of the outcome of the student conduct process
- PASSHECCC will enforce the retaliation policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination

- PASSHECCC will provide simultaneous notice to both parties regarding both the submission and outcome of an appeal. The standard of evidence used is preponderance of the evidence, therefore, a decision of responsibility will be based upon presented evidence sufficient to make a reasonable person believe that it was more likely than not a student is in violation of PASSHECCC policy

### **Stalking**

- PASSHECCC will assess immediate safety needs of complainant
- PASSHECCC will assist the complainant to report STALKING to the Philadelphia Police Department, Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested
- PASSHECCC will provide complainant with information regarding on and off campus services/providers
- PASSHECCC will assess the need to implement interim or long-term protective measures, such as housing changes, change in class schedule, “No Contact/Stay Away” directives between both parties if reasonably available
- PASSHECCC will provide “No Trespass” directives or an “Interim Suspension” to the respondent, if deemed appropriate
- PASSHECCC will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints
- PASSHECCC will receive input from the complainant on their desire to move forward with Student Code of Conduct charges and/or participate in a hearing
- PASSHECCC will provide both the respondent and complainant an opportunity to review the investigation report prior to a hearing.
- PASSHECCC will inform the complainant and respondent of the outcome of the student conduct process.
- PASSHECCC will enforce the retaliation policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination
- PASSHECCC will provide simultaneous notice to both parties regarding both the submission and outcome of an appeal     Preponderance of the evidence

### **Dating Violence**

- PASSHECCC will assess immediate safety needs of complainant
- PASSHECCC will assist the complainant to report DATING VIOLENCE to the Philadelphia Police Department, Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested
- PASSHECCC will provide complainant with information regarding on and off campus services/providers
- PASSHECCC will assess the need to implement interim or long-term protective measures, such as housing changes, change in class schedule, “No Contact/Stay Away” directives between both parties if reasonably available
- PASSHECCC will provide “No Trespass” directives or an “Interim Suspension” to the respondent, if deemed appropriate
- PASSHECCC will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints
- PASSHECCC will receive input from the complainant on their desire to move forward with Student Code of Conduct charges and/or participate in a hearing
- PASSHECCC will inform the complainant and respondent of the outcome of the student conduct process
- PASSHECCC will enforce the retaliation policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination

PASSHE Center City Campus will provide simultaneous notice to both parties regarding both the submission and outcome of an appeal Preponderance of the evidence

#### **D. Assistance for Victims: Rights & Options**

Regardless of whether a victim elects to pursue a criminal complaint or whether the offense is alleged to have occurred on or off campus, the University will assist victims of sexual assault, domestic violence, dating violence, and stalking and will provide each victim with a written explanation of their rights and options.

PASSHE Center City Campus complies with Pennsylvania law in recognizing orders of protection by advising any person who obtains an order of protection from any state within the U.S. to provide a copy to Philadelphia Police Department and the Office of the Title IX Coordinator. A complainant may then meet with the Title IX Coordinator to develop a Safety Action Plan, which is a plan for campus police and the victim to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom locations or allowing a student to complete assignments from home. Other options may be available for a student on a case-by-case basis as the PASSHE Center City Campus determines what other measures must be taken.

The PASSHE Center City Campus cannot apply for a legal order of protection/protection from abuse (PFA) from the applicable jurisdiction(s). The victim is required to apply directly for these services. To obtain a Protection from Abuse (PFA) Order, Monday through Friday between 8:30 a.m. and 5:00 p.m., the victim must go to Family Court located 34 South 11th Street Room B-15 Philadelphia, PA. (215) 686-3511. To obtain a PFA Monday through Friday between 5:00 p.m. and 8:30 a.m., the victim must go to the Criminal Justice Center, 1301 Filbert St., Room B-03, Philadelphia PA 19107. To obtain a PFA on the weekend, or on a day in which Family Court is closed, the victim must go to the on-call District Justice for an Emergency PFA. The victim should call his or her local police department to find out who is the district justice on-call. The Emergency PFA is only valid through the close of the next business day. For example, if a victim obtains an Emergency PFA on a Friday evening, that PFA is only valid through Monday at 4:30 p.m.

#### **Frequently asked questions regarding PFAs**

##### **1. What is abuse?**

Under the Protection From Abuse Act, abuse is defined as any of the following:

- Attempting to, intentionally or recklessly causing bodily injury, rape, spousal sexual assault or nonconsensual intercourse with or without a deadly weapon.
- Placing another, by physical threat, in fear of imminent serious bodily injury.
- False imprisonment.
- Physically or sexually abusing minor children.
- Stalking a person and placing that person in reasonable fear of bodily injury.

\* The Act does not cover emotional, verbal or mental abuse.

##### **2. Who can file for protection under the act?**

You can file for protection if the person who has or is trying to harm you is or was your spouse, is or was living with you in a common-law marriage, is the parent of your child, is your child, is your parent,



is your sexual intimate partner, is directly related to you by blood. If the abused person is a minor, then a parent, adult household member or guardian can file on behalf of the child.

### **3. Is there a cost for filing a Protection from Abuse order?**

Yes. There are costs that must be eventually paid when you file a protection from abuse order with the court. You will not have to pay any fees at the time of filing. However, at the time of the hearing the court will order either the alleged assailant to pay the costs, you pay the costs, the costs to be split by both parties. If you are successful and the court grants you the protection from abuse order, the costs are usually placed upon the alleged assailant. The court costs must be paid even if you choose to withdraw your petition and decide not to proceed with the case. If you do not appear at your scheduled hearing your case will be dismissed and the court will hold you responsible for all costs.

### **4. How and where do I file for a Protection from Abuse Order?**

If you are represented by counsel in any domestic relations matter (i.e. divorce, custody, support), you should contact your attorney for legal advice. However, if you do not have a lawyer, you must appear in person at the Family Court located 34 South 11th Street Room B-15 Philadelphia, PA. (215) 686-3511. There are no attorneys on staff to provide legal advice for you; the PFA Coordinator will assist you in filing the paperwork that is needed. The PFA Coordinator may not give you legal advice.

You must be abused (read definition above) in order to qualify for the PFA. The coordinator will assist you in completing the necessary paperwork and will explain the remedies to you under the PFA Act. After completing the paperwork, the coordinator will present your petition to the judge on your behalf.

You may visit Family Court to file for a Protection from Abuse Order.

Protection orders can be filed Monday through Friday 8:30 a.m. – 5:00 p.m.

Or visit the Criminal Justice Center Monday through Friday from 5:00 p.m. to 8:30 a.m.

Please take into consideration that the filing procedure for the protection from abuse order is a lengthy process lasting anywhere between 2-3 hrs.

### **5. What should I bring with me when I go to file for a Protection from Abuse Order?**

Please come prepared with the following information:

names (all persons and parties)

date of birth (all persons and parties)

social security numbers (all persons and parties)

address where the person may be found (including places that they frequent)

any documentation relating to the case (i.e. medical reports, police reports, or photographs)

photograph of alleged assailant

vehicle make, model, style, and license plate number of alleged assailant

photograph of alleged injury from the assault

Because the Justice Center does not have a day care program available, unless your minor child is the victim of the alleged abuse, please make appropriate child care arrangements. If that is not possible, please bring someone to watch the child while you are being assisted.

### **6. What help is available at night, on weekends, or when the Justice Center is closed?**

In case of an emergency or if you've been assaulted, contact your local police department or 911. If you are in immediate and present danger of abuse, a Petition for Emergency Relief from Abuse may be filed with the on call district court (police will provide you with the name of the on call emergency

signing district justice). If the district justice believes that you are in immediate danger, he/she will grant you an emergency protection from abuse order. This protection order will expire at 4:30 p.m. the following business day. Be sure to contact the Family Court Administration Office as soon as possible, if you do want to pursue a permanent PFA Order.

### **7. How do I receive a temporary protection order after filing a petition for protection from abuse?**

After filing a petition for protection from abuse, a judge will review the case to determine if a temporary protection order should or should not be granted. If the judge believes a Temporary Order should be issued, he/she will issue a temporary protection order.

### **8. How is the alleged assailant notified of the temporary protection from abuse order?**

The alleged assailant must be served with notice of the temporary protection order and the hearing date. The sheriff's department or a local law enforcement agency will serve the court order on the alleged assailant. Once the alleged assailant is served, he/she can be arrested if there is another assault in violation of the terms of the court order.

### **9. How do I get a final protection from abuse order?**

A hearing will be held in front of a judge within ten days of filing your petition with the court, and the judge will listen to the facts of your case. If the judge finds that abuse has occurred, a final protection from abuse order will be issued. The length of the order can be from one (1) to eighteen (18) months.

### **10. What protection will I receive?**

A Protection from Abuse Order may contain the following relief:

- direct the alleged assailant not to abuse, threaten, harass or stalk you.
- direct the alleged assailant to stay away from the house or apartment where you live, even if that is also the alleged assailant's home.
- direct the alleged assailant to stay away from your school or where you work.
- direct the alleged assailant to refrain from harassing you or your relatives.
- prohibit the alleged assailant from having any guns or gun permits.
- direct the alleged assailant to pay you for losses resulting from the abuse. These could include medical bills and lost wages.
- direct the alleged assailant to attend a batterer's counseling program (depending on jurisdiction).
- award you temporary custody of your children and may grant you temporary support for yourself and/or the children of the alleged assailant (THIS MAY NOT APPLY IN ALL CASES).

Terms of order may vary depending on each specific circumstance.

If you are awarded custody/support you must follow up by filing the appropriate custody/support actions in a timely manner. Do not wait until your order expires. Speak to an attorney prior to taking these actions for legal advice.

### **11. Will my protection order be enforced in another county or state?**

In most cases, yes. The Pennsylvania State Police maintains a registry of all protection from abuse orders issued throughout the Commonwealth of Pennsylvania. Most out-of-state courts will enforce a valid protection order that is issued and properly filed in another state.

### **12. What if the alleged assailant violates the order?**

You should immediately call the police and report the violation. A police officer may arrest the alleged assailant, even if he/she does not witness the abuse. An alleged assailant charged with the contempt

of a protection order can face criminal charges for the acts committed that were in violation of the order. After a hearing, the court may find the alleged assailant in contempt and sentence him/her to prison for up to six months and/or fined up to \$1,000 under Pennsylvania law.

### **13. How can I get a copy of my PFA order?**

All civil matters, including your PFA, get filed in the Family Court located 34 South 11th Street Domestic Relations Unit Room B-15 Philadelphia, PA. 19107 (215) 686-3511. You may go in person and request your copies.

### **14. What Domestic Violence Programs exist in Philadelphia?**

These services include crisis hotlines, safe homes or shelters, legal advocacy, community education, counseling, systems intervention, transportation, as well as information and referral. A domestic violence counselor may be available to help an abused person seek a protection order. Your local domestic violence hotline is available 24 hours a day, and all services are confidential. For more information look in the blue pages of your local phone book or contact:

The Crime Victims' Center of Center City:	(215) 665-9680
Women's Organization Against Rape:	(215) 985-3315
The Domestic Violence Center of Center City 24-Hour Hotline:	1-866-723-3014

### **15. How can I find a Lawyer?**

Legal Philly 24/7 (267)265-4553

2 Penn Center Plaza  
1500 John F. Kennedy Blvd, Suite 220  
Philadelphia, PA. 19102

More information on obtaining a Protection from Abuse Order in the State of Pennsylvania can be found here:

<http://www.philalegal.org/PFA>

PASSHE Center City campus offices may issue an institutional "no contact" order if deemed appropriate or at the request of the victim or accused. To the extent of the victim's cooperation and consent, PASSHE Center City offices will work cooperatively to ensure that the complainant's health, physical safety, work and academic status are protected, pending the outcome of a formal PASSHE Center City offices investigation of the complaint. For example, if reasonably available, a complainant may be offered changes to academic, living, or working situations in addition to counseling, health services, visa and immigration assistance and assistance in notifying appropriate local law enforcement. Additionally, personal identifiable information about the victim will be treated as confidential and only shared with persons with a specific need to know who are investigating/adjudicating the complaint or delivering resources or support services to the complainant. For example, publicly available record-keeping for purposes of Clery Act reporting and disclosures will be made without inclusion of identifying information about the victim, as defined in 42 USC 1395 (a) (20) Further, the institution will maintain as confidential, any accommodations or protective measures provided to the victim to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

## Resources for victims of Domestic Violence, Dating Violence, Sexual Assault & Stalking

<u>On-Campus Resource</u>	<u>Address/Location on</u>	<u>Campus Phone Number</u>
Director/Title IX Coordinator Christina Dennis	701 Market Street Concourse Level Philadelphia, PA. 19106	267-386-3003

<u>Off-Campus Resource</u>	<u>Address/Location</u>	<u>Off Campus Phone Number</u>
Pennsylvania Coalition Against Domestic Violence <a href="http://www.pcadv.org">www.pcadv.org</a>		1-800-799-7233
National Sexual Assault Hotline <a href="http://www.rainn.org">www.rainn.org</a>		1-800-656-4673
Pennsylvania Coalition Against Rape <a href="http://www.pcar.org">www.pcar.org</a>		1-800-692-7445

### **Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, include:**

Pennsylvania Coalition Against Rape: [www.pcar.org](http://www.pcar.org)

Pennsylvania Coalition Against Domestic Violence: [www.pcadv.org](http://www.pcadv.org)

Rape, Abuse and Incest National Network: [www.rainn.org](http://www.rainn.org)

Department of Justice, Office on Violence Against Women: <http://www.justice.gov/ovw>

Department of Education, Office of Civil Rights: <http://www2.ed.gov/about/offices/list/ocr/index.html>

### **How to be an Active Bystander**

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.” We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list of some ways to be an active bystander. Further information regarding bystander intervention may be found. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
2. Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
3. Speak up when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

## **Risk Reduction**

With no intention to blame the complainant, and with recognition that only those who commit sexual harassment and violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. (Taken from Rape, Abuse, & Incest National Network, [www.rainn.org](http://www.rainn.org)):

1. Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
2. Try to avoid isolated areas. It is more difficult to get help if no one is around.
3. Walk with purpose. Even if you don't know where you are going, act like you do.
4. Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
5. Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
6. Make sure your cell phone is with you and charged and that you have cab money.
7. Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
8. Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
9. When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
10. Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
11. Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
12. Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
13. Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
14. If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.). Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
15. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
  - a. Remember that being in this situation is not your fault. You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
  - b. Be true to yourself. Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.

- c. Have a code word with your friends or family so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
- d. Lie. If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.

16. Try to think of an escape route. How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?

17. If you and/or the other person have been drinking, you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

### **E. Adjudication of Violations**

Whether or not criminal charges are filed, the host University or a person may file a complaint under the sexual misconduct policy alleging that a student violated the hosting university's Sexual Misconduct Policy or alleging an employee violated the Sexual Harassment policy. The following are the overviews of the policy and procedures in place as they relate to employees or students as the accused.

Reports of all domestic violence, dating violence, sexual assault and stalking made to PASSHE Center City campus will automatically be referred to the Title IX Coordinator for investigation regardless of if the complainant chooses to pursue criminal charges.

### **Employee Sexual Harassment Policy and Procedures Overview**

The procedures described in the host University's Sexual Harassment Policy represent such university's method for responding to complaints of sexual harassment whether those complaints are formal or informal, and involving employees as the accused party. The procedure for informal complaints calls for prompt review and mediation if desired, followed by action intended to prevent any harassment. The procedure for formal complaints also results in prompt review which may result in disciplinary action against someone who has sexually harassed another. To the extent possible, the University expects to complete the investigation within 50 business days of receiving a written complaint unless there are extenuating circumstances which may prevent the University from complying with this timeframe.

The complainant has the right, consistent with this policy's time frame, to file a formal complaint at any time during the informal process or if satisfactory results are not achieved through the informal process. The complainant also has the option of pursuing formal complaints through the following public agencies responsible for enforcing the laws against sexual harassment within the time frames listed. PA Human Relations Commission (215) 560-2496 (180 days); U.S. Dept. of Education, Office for Civil Rights (215) 656-8541 (180 days); Equal Employment Opportunity Commission (800) 669-4000 (300 days.)

Employees accused of sexual harassment have the right to be assisted by their collective bargaining unit representative at any meeting held to discuss the complaint with the accused. If an employee elects to be represented by his or her union, the union will receive copies of all written notifications sent to the accused. Employees equally have the right not to be represented by their union. The decision regarding union representation rests solely with the accused employee. When a formal investigation is to be conducted against a faculty member, Article 43 of the APSCUF collective

bargaining agreement will also govern. The complainant also has the right to be assisted in all aspects of the complaint procedure by an advocate should they desire to do so. Trained faculty and staff are available to serve to: clarify procedural issues, assist with the preparation of the complaint, make inquiries as to the status of the complaint, and provide other support-related functions.

The Social Equity Director will provide the name and contact information of an available advocate to the complainant. The role of the Collective Bargaining Unit representatives and complainant advocates is limited to the advice and counsel of their principals only. If a complaint alleges sexual harassment by an employee of the Office of Social Equity or the Office of the President, the complaint will be investigated by a party external to the host University.

Sexual harassment is a serious matter which can have far-reaching effects; therefore, knowingly false or malicious accusations may result in disciplinary action.

In order to process either an informal or formal complaint of sexual harassment, the individual, accompanied by an advocate if she or he wishes, must process the complaint through the University's Social Equity Director. The complainant will provide a written statement to the Social Equity Director with sufficient factual information to permit the director to make an initial determination if the University policy on sexual harassment may have been violated.

Complaints should be filed up to 180 days after the alleged act or behavior. However, it is in the best interest of all to conduct a timely review of the circumstances of the alleged harassing behavior; accordingly, complainants are urged to file complaints as soon as possible. In recognition of the dignity and reputations of all parties, it is the intent of the host University's employees officially involved in the proceedings or investigation to preserve the confidentiality of the complaints and all proceedings. Disclosure of the complaint will be limited to individuals who, in the interest of fairness and problem resolution, have a need to know. The complainant and the accused are expected to maintain confidentiality consistent with the intent of the host University.

The facts will be evaluated using a preponderance of the evidence standard to determine if a violation of this policy has occurred. At the conclusion of the process, written outcomes and resolutions will be provided to the complainant and the accused.

### **The Complaint Process**

The sexual harassment complaint process includes different types of procedures for resolving complaints from individuals who believe they may have been the subject of a specific act or a pattern of behavior falling within the definition of sexual harassment. The individual can, if he or she chooses, inform the offender orally or in writing that those actions are offensive and to ask firmly that they cease. However, should the oral or written request not stop the harassment or if such a request is too difficult to make, then the individual may discuss the issue with the offender's supervisor, department chairperson or dean, or contact any of the below listed University offices to seek assistance.

PASSHE Center City Campus Title IX Coordinator  
Christina Dennis  
Mellon Independence Center  
701 Market Street, Concourse Level  
Philadelphia, PA. 19106  
267-386-3003

Host University Title IX Coordinator  
Host University Director of Women's Center  
Host University Director of Judicial Affairs and Student Assistance  
Host University Assistant V.P. for Student Affairs



See host University Annual Security Report for more information on the above process. The above noted offices serve as an initial point of contact and provide information regarding sexual harassment and the University's procedures in handling complaints. The Social Equity Director will be responsible for initially determining if the complaint may represent a violation of the University's sexual harassment policy. If the Social Equity Director determines that the complaint does not violate the University's Sexual Harassment Policy, the individual filing the complaint will be so advised and the on campus case will be closed. If there is a disagreement with this decision, the individual filing the complaint may ask that the decision be reviewed by the Review Panel. The Social Equity Director does maintain the right to refer the case to other appropriate officials if it appears there may be other misconduct not construed to be sexual harassment. If the Social Equity Director determines that the allegation may represent a violation of the University's sexual harassment policy, the complainant may choose to process the complaint through either the informal or formal procedures.

### **Informal Complaint Procedure**

Informal procedures (wherein no formal finding or discipline of an employee will be involved) include efforts to mediate a resolution upon which both the complainant and the individual accused of sexual harassment behavior can agree. It is not appropriate to use this informal complaint procedure in cases of sexual assault.

The complainant initiates the informal procedure by filing a written complaint. Upon review of the informal complaint, the Social Equity Director will contact the accused to arrange a meeting to inform the individual of the complaint. If the person making the accusation is a student enrolled at the time in the class of the accused, upon request of the student, the Social Equity Director may delay the notification until after the completion of the semester. The Social Equity Director will advise the accused of the informal complaint procedures and describe the alleged behaviors which are considered to be offensive by the complainant.

After accepting the informal complaint, informing the accused of the allegations and the complainant's desire for mediation, and with the concurrence of the accused, the Social Equity Director will facilitate a resolution or appoint a mediator. The Social Equity Director will notify the parties of the mediator's identity. Mediation occurs by mutual consent; therefore, at any stage of the mediation process either party has the opportunity to withdraw from the process. The mediator will serve as the facilitator to seek resolution. Information regarding the circumstances and perceptions of the complainant will be shared by the mediator with the accused and the accused will have an opportunity to respond.

The Social Equity Director will send a written summary of the outcome to the parties. If the complainant is not satisfied with the outcome, the complainant may choose to file a formal complaint utilizing the University's sexual harassment policy or through external agencies. If the Social Equity Director makes a determination that there is a need for a formal investigation, the formal process may be initiated on behalf of the University.

All written summaries of the Informal Complaint Procedure will be maintained by the Social Equity Office for a period of five (5) years. No written record will be forwarded to the official personnel file.

### **Formal Complaint Procedure**

Formal procedure (wherein a formal finding will be made and discipline of an employee may be imposed if appropriate) includes an investigatory and review process. This investigatory procedure is not intended to interfere with any legal rights an employee or student has under the statutes and other laws of the Commonwealth of Pennsylvania or the government of the United States of America.

In addition, it is not intended to interfere with any rights an employee may have under the appropriate collective bargaining agreement.

The complainant initiates the formal complaint procedure by filing a written formal complaint. The Social Equity Director will inform the accused of the allegation and provide the accused with a copy of the written complaint and a copy of the host University's sexual harassment policy. No investigation will be commenced until a copy of the complaint and sexual harassment policy has been mailed to the accused by certified mail. The accused employee will be advised of the rights to the union representation if appropriate. The Social Equity Director will provide an opportunity to meet with the accused in a timely manner to review the formal complaint and the host University's sexual harassment investigatory procedures. The employee may choose to be accompanied by a union representative at this meeting.

After accepting a written formal complaint, the Social Equity Director will appoint a fact finder. When appropriate, as determined by the Social Equity Director, two fact finders may be assigned to a case. The Social Equity Director will notify the parties of the fact finder's identity. In addition, the appropriate manager, supervisor and/or chairperson will be advised. Fact finders are specifically trained and impartial faculty or staff. The fact finder's role is to investigate complaints and make findings of fact pertaining to the complaint. Investigating complaints includes but is not limited to access to records and interviewing the complainant, accused and others who may have relevant information. The fact finder has sole discretion to determine the scope and format of the investigation.

The fact finder will submit a report of his or her findings to the Social Equity Director. The Social Equity Office will then convene the Review Panel. This Panel, consisting of three individuals selected by the Social Equity Director from the pool of specifically trained and impartial faculty or staff, will serve as consultants to the Social Equity Director in formulating an opinion as to whether reasonable cause exists to believe that a violation of the University's Sexual Harassment Policy has occurred. In consultation with the Review Panel, the Social Equity Director will formulate an opinion on whether there has been a violation of the University's policy on sexual harassment. The facts will be evaluated using a preponderance of the evidence standard to determine if a violation of this policy has occurred.

If it is determined that there is not enough evidence to warrant a finding of sexual harassment, the complainant and accused will so be notified by the Social Equity Director and the sexual harassment complaint will be closed. The Social Equity Director, however, does maintain the right to refer the case to other appropriate University officials if it appears there may be violations of the host University's Misconduct Policy or other University policies, not construed to be sexual harassment. If it is the opinion of the Social Equity Director that there is reasonable cause to believe that the University's policy on sexual harassment has been violated, the Social Equity Director will forward the fact finder's report, the Review Panel's recommendations and the Social Equity Director's opinion to the appropriate manager. Copies of these documents also will be provided to the accused.

The manager will utilize the existing host University pre-disciplinary conference procedures, ensuring that the accused employee has the opportunity to be represented, if so desired, by his or her union representative during the pre-disciplinary conference proceedings. At the pre-disciplinary conference the accused will have an opportunity to rebut the findings of the fact finders' report, the recommendations of the review panel, and the opinion of the Social Equity Director. After completing the pre-disciplinary conference, the manager in consultation with the Associate Vice President for Human Resource Services and other University officials as needed, will determine if discipline is appropriate, and if appropriate, what level of discipline should be imposed.

Possible disciplinary actions for violation of the host University's sexual harassment policy include oral or written reprimand, suspension, or termination of employment. The manager is not bound by

the opinion of the Social Equity Director and reserves the right to make his or her own final determination.

Disciplined employees will have the right to appeal and/or grieve management's decision to the extent provided in the appropriate policy and/or collective bargaining agreement. The complainant will receive written notification of the final disposition of the complaint. If the complainant finds the resolution or disciplinary action unsatisfactory he or she may pursue the complaint with the appropriate external agencies.

### **Student Sexual Misconduct Policy and Procedures Overview**

Sexual harassment, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX of the Education Amendments of 1972. A Title IX investigation is separate from a criminal investigation by the police and courts. Victims of any form of sex discrimination, sexual violence, sexual misconduct or gender-based harassment are encouraged to report the incident to the Title IX Coordinator:

Christina Dennis  
Director & Title IX Coordinator  
267-386-3003  
[cdennis@passhe.edu](mailto:cdennis@passhe.edu)

Additionally, University employees are required to report any incident of sexual misconduct that they witness or that is reported to them and provide the name of the victim to the Title IX Coordinator. The Title IX Coordinator will speak with the victim to: ensure that she or he is aware of available resources, services, and interim safety measures to assist with the physical and emotional aftermath of the incident; advise the victim of the complaint filing options; and take any necessary steps to ensure the safety of the PASSHE Center City Campus community.

**To file a PASSHE Center City Campus judicial report:** PASSHE Center City does not have a Judicial office. All judicials will be handled by the students host university. Sexual misconduct is a violation of the Student Code of Conduct, and as such a victim may make a judicial complaint against a student(s). A judicial investigation and hearing is separate from a criminal investigation by the police. A perpetrator can receive punishment up to and including expulsion from the PASSHE Center City campus and the host University. Formal judicial complaints can be made by contacting: Host University's Office of Judicial Affairs and Student Assistance

### **To file an anonymous report**

PASSHE Center City Campus strongly encourages those who want to file a report on behalf of themselves or someone else to identify themselves by name, but anonymous reports will be accepted by anyone with knowledge of a sexual misconduct violation.

Anonymous reports are used to collect information on instances of sexual misconduct. The information is useful for assessing the danger the incident represents to the community at large. In addition, information is also used for assessment purposes to ensure that PASSHE Center City is maintaining a campus climate that is safe and supportive and providing adequate resources for students.

PASSHE Center City has a legal obligation to investigate anonymous reports of sexual misconduct to the extent feasible. It is not usually possible to conduct a formal investigation of anonymous reports of sexual misconduct, or in situations where a complainant requests confidentiality, or when a person making a report asks that the complaint not be pursued; however, the University has a responsibility to take action to prevent misconduct.

In the event of anonymous reports of sexual misconduct, or if the person making the report asks that the complaint not be pursued, the Office of Social Equity will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality, which may include meeting with the alleged harasser to provide notification of the allegations and the possible repercussions if a formal complaint is brought forward. The office of PASSHE Center City may recommend voluntary sexual misconduct training for an individual or a work unit.

Under Title IX, the PASSHE Center City campus has an obligation to investigate all incidents of sexual misconduct, and make victims aware of the resources available to them, while striving to respect the privacy and confidentiality of the victim. Consistent with this and related obligations under Title IX, the confidentiality of all parties to the complaint of sexual misconduct will be observed by PASSHE Center City personnel to the extent possible. The PASSHE Center City campus' obligation to protect the safety of its students and to record statistics may not permit complete confidentiality, but the PASSHE Center City campus shall take the necessary measures to ensure that the information shared is limited to those individuals required to know pursuant to law, regulation or University policy. In life-threatening situations, confidentiality is not legally possible and PASSHE Center City employees will contact emergency personnel immediately.

All reported instances of sexual misconduct will be investigated promptly, thoroughly, and equitably with appropriate response taken to ensure a safe and nondiscriminatory environment for all students, faculty, and staff. PASSHE Center City Campus will inform the victim before conducting an investigation and determining appropriate action to remedy a situation. A victim may request that no investigation take place or that his or her name not be disclosed to the perpetrator during an investigation. These requests will be evaluated according to the severity of the situation and the threat that the perpetrator(s) poses to the overall safety of the campus community. The PASSHE Center City Campus will notify the victim if and when confidentiality and/or compliance with their wishes cannot be guaranteed.

### **PASSHE Center City Campus Disciplinary Procedure**

Any student or employee of PASSHE Center City Campus can file a charge against a student or student organization for violations of their host University's Student Code of Conduct on the basis of sexual misconduct. Student Code of Conduct charges are entirely separate from a criminal investigation by the police, and any complainant may file a criminal complaint with police in addition to a Student Code of Conduct violation. The intentional filing of a false report will not be tolerated. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal laws and civil defamation laws.

### **Retaliation**

PASSHE Center City Campus prohibits retaliation against any person for using this reporting procedure, or for filing, testifying, assisting or participating in any investigation or proceeding involving allegations of sexual harassment or misconduct. Any retaliatory behavior should be reported immediately to the Director of PASSHE Center City. Any person, including third parties, who violates this retaliation policy, will be subject to discipline, up to and including termination if they are an employee, and/or expulsion if they are a student.

### **Investigation**

Once a complainant files a sexual misconduct complaint and is informed that an investigation will be conducted. The Title IX Coordinator, Christina Dennis (office number 267-386-3003) conducts a fact-finding investigation which will include all involved parties, including any witnesses. The investigation

of a complaint will be conducted in a timely manner, and will be completed within fifty days unless there are extenuating circumstances. At the conclusion of the investigation, the Title IX Coordinator prepares a report detailing the incident and their findings. During the investigation phase, the victim may seek out remedies or protections until a formal remedy is imposed. Victims may request:

- limitations on contact between parties (referred to as a “No Contact Directive”);
- an escort to ensure the victim’s safety;
- reassignment of classes to ensure that the victim and accused are not attending the same class,
- counseling services;
- medical services;
- academic support such as tutoring;
- to withdraw from a class without penalty.

### **Overview of Disciplinary Process**

The Director of Judicial Affairs and Student Assistance at the host University will contact the complainant within two business days upon receipt of the investigator’s report to discuss options available for resolution of the complaint. The complainant may choose to resolve the complaint informally or through a formal process (Judicial Board Hearing). Informal resolution options include, but are not limited to, “no contact directives,” residence hall reassignments, and/or adjustment of class schedules. Mediation between the parties will never be used in the case of sexual misconduct. Once the informal resolution procedure is complete, all parties will receive written notification. The Title IX Coordinator will also be given notification. If the complainant is not satisfied with informal resolution, a Judicial Board Hearing will be scheduled within seven business days of the request for a hearing. Prior to a hearing, both the complainant and the accused will be granted similar and timely access to any information that will be used at the hearing. They will have the opportunity to review any statements that will be used during the hearing.

### **Judicial Hearing**

PASSHE Center City does not have a Judicial office. All judicials will be handled by the students host university.

The purpose of a hearing is to hear the facts and circumstances of the alleged incident and to accept all evidence offered by the complainant and the accused. In determining whether a sexual misconduct violation has occurred, the judicial board applies a “preponderance of the evidence” standard. That is, the judicial board must determine if the testimony and evidence presented suggests that it is “more likely than not” that sexual misconduct has occurred.

All hearings are closed proceedings, meaning that they are not open to the public. However, the complainant and the accused have the right to have a support person accompany him or her. Support persons are not permitted to participate in the hearing process.

In addition to a support person, both the complainant and accused have the right to be assisted at the hearing by one adviser, who may be an attorney. The adviser is not permitted to actively participate in the proceedings, and may only consult and interact privately with the student.

### **Sanctions**

In addition to testimony and evidence presented at a conference or hearing, a Judicial Board may consider the following elements before rendering a sanction:

- Severity of the violation;
- Academic records and class year;
- Previous discipline record including that which is public record;
- Attitude of the accused during the conference and/or hearing.

Sanctions may range from:

- Written warning
- Expulsion from the University.

### **Appeals**

Upon receiving a sanction from the Judicial Board, the complainant or the accused may appeal for the following reasons:

- Violations of judicial procedures;
- Severity of sanction is not supported by the evidence;
- Lack of substantial evidence upon which a determination of guilt can be based; and/or
- New evidence that was not previously available, and that might substantially change the nature of the case.

All appeals must be made in writing to the host University's Director of Judicial Affairs and Student Assistance within five business days from the exit date listed on the Sanction Assessment Form.

### **Confidentiality**

PASSHE Center City will protect the identity of persons who report having been victims of sexual assault, domestic violence, dating violence, or stalking to the fullest extent of the law and as previously mentioned in this document.

### **Sanctions and Protective Measures**

In all cases, investigations that result in a finding of more likely than not that a violation of the sexual misconduct policy occurred will lead to the initiation of disciplinary procedures against the accused individual.

The Title IX Coordinator or their designee will determine whether interim interventions and interim and permanent protective measures should be implemented, and, if so, take steps to implement those protective measures as soon as possible. Examples of interim protective measures include, but are not limited to: a University order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position. These remedies may be applied to one, both, or multiple parties involved. Violations of the Title IX Coordinator's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by PASSHE Center City.

### **Federal Timely Warning Notice**

Victims of sexual misconduct should be aware that PASSHE Center City and the partner University's Police administrators must issue timely warnings for incidents reported that pose a substantial threat of bodily harm or danger to members of the campus community. PASSHE Center City Campus and partner University's will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions for themselves.

## **Sex Offender Registration**

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteers services or is a student. A list of all registered sex offenders in Pennsylvania is available at <http://www.pameganslaw.state.pa.us/>



## Appendix A

### PASSHE Center City campus – Clery Act Statistics

Arrests and Disciplinary Referrals	Year	On Campus <sup>1</sup>	Non Campus <sup>2</sup>	Public Property <sup>3</sup>
Liquor Law Violations (Arrest)	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Liquor Law Violations (Judicial)	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Drug Law Violations (Arrest)	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Drug Law Violations (Judicial)	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Weapons Violations (Arrest)	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Weapons Violations (Judicial)	2011	0	0	0
	2012	0	0	0
	2013	0	0	0

<sup>1</sup> On Campus - Any Building or property owned or controlled by the PASSHE Center City campus within the same reasonably contiguous geographic area and used by the PASSHE Center City campus in direct support of, or in a manner related to, the PASSHE Center City campus educational purposes. Any building or property that is within or reasonably contiguous to the areas described above that supports PASSHE Center City campus purposes and that is: owned by the PASSHE Center City campus, but controlled by another person or entity; or is frequently used by students.

<sup>2</sup> Non Campus - Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.

<sup>3</sup> Public Property - All public property, including thoroughfares, streets and sidewalks that is within the campus or immediately adjacent to and accessible from the campus. Data collected and reported by Philadelphia Police Department.

## PASSHE Center City campus Clery Act Statistics

This table contains crimes reported to Philadelphia Police Department and campus officials. These reports of crime are compiled in accordance with the provisions of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, commonly known as the "Clery Act." The Clery Act is a federal law that requires all post-secondary educational institutions participating in federal student financial aid programs to publicly disclose crime statistics and crime prevention/security policies for their campuses every year.

Reportable Crime Categories	Year	On Campus <sup>1</sup>	Non Campus <sup>2</sup>	Public Property <sup>3</sup>
Murder / Non-Negligent Manslaughter	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Negligent Manslaughter	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Sex Offenses / Forcible	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Sex Offenses / Non-Forcible	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Robbery	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Aggravated Assault	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Burglary	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Motor Vehicle Theft	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Arson	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Bias Crimes Involving Injury (All other crimes not captured above, including bias with bodily injury.)	2011	0	0	0
	2012	0	0	0
	2013	0	0	0

<sup>1</sup> On Campus - Any Building or property owned or controlled by the PASSHE Center City campus within the same reasonably contiguous geographic area and used by the PASSHE Center City campus in direct support of, or in a manner related to, the PASSHE Center City campus educational purposes. Any building or property that is within or reasonably contiguous to the areas described above that supports PASSHE Center City campus purposes and that is: owned by the PASSHE Center City campus, but controlled by another person or entity; or is frequently used by students.

<sup>2</sup> Non Campus - Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.

<sup>3</sup> Public Property - All public property, including thoroughfares, streets and sidewalks that is within the campus or immediately adjacent to and accessible from the campus. Data collected and reported by Philadelphia Police Department.

<b>PASSHE Center City campus Hate Crime Reporting On Campus</b>	<b>Year</b>	<b>Race</b>	<b>Gender</b>	<b>Religion</b>	<b>Sexual Orientation</b>	<b>Ethnicity</b>	<b>National Origin</b>	<b>Disability</b>	<b>Gender Identity</b>
Murder / Non-Negligent Manslaughter	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Negligent Manslaughter	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Sex Offenses / Forcible	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Sex Offenses / Non-Forcible	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Robbery	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Aggravated Assault	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Burglary	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Motor Vehicle Theft	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Arson	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Larceny / Theft	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Simple Assault	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Intimidation	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Destruction, Damage or Vandalism of Property	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
All other crimes including harassment	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0

<b>PASSHE Center City campus Hate Crime Reporting Public Property</b>	<b>Year</b>	<b>Race</b>	<b>Gender</b>	<b>Religion</b>	<b>Sexual Orientation</b>	<b>Ethnicity</b>	<b>National Origin</b>	<b>Disability</b>	<b>Gender Identity</b>
Murder / Non-Negligent Manslaughter	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Negligent Manslaughter	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Sex Offenses / Forcible	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Sex Offenses / Non-Forcible	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Robbery	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Aggravated Assault	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Burglary	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Motor Vehicle Theft	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Arson	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Larceny / Theft	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Simple Assault	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Intimidation	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Destruction, Damage or Vandalism of Property	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
All Other crimes including harassment	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0

<b>PASSHE Center City campus Hate Crime Reporting Non Campus</b>	<b>Year</b>	<b>Race</b>	<b>Gender</b>	<b>Religion</b>	<b>Sexual Orientation</b>	<b>Ethnicity</b>	<b>National Origin</b>	<b>Disability</b>	<b>Gender Identity</b>
Murder / Non-Negligent Manslaughter	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Negligent Manslaughter	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Sex Offenses / Forcible	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Sex Offenses / Non-Forcible	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Robbery	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Aggravated Assault	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Burglary	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Motor Vehicle Theft	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Arson	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Larceny / Theft	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Simple Assault	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Intimidation	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
Destruction, Damage or Vandalism of Property	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0
All Other crimes including harassment	2011	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0

## Uniform Crime Reports

The PASSHE Center City campus is required to report crimes under the Uniform Crime Reporting System in addition to the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. Due to differences in crime classifications and their definitions, reported statistics in the two reports are generally not comparable.

### Uniform Crime Reporting - Part I Offenses – PASSHE Center City campus

PASSHE Center City campus Uniform Crime Reports Part I Categories	Year	Reported Offenses	Full Time Equivalent (FTE) *	Offense Ratio
Murder	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Manslaughter	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Rape	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Robbery	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Aggravated Assault	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Burglary	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Larceny	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Motor Vehicle Theft	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Arson	2011	0	191	0
	2012	0	191	0
	2013	0	191	0

\* Full Time Equivalent is based on fall semester student and employee population.

## Uniform Crime Reporting - Part II Offenses – PASSHE Center City campus

PASSHE Center City campus Uniform Crime Reports Part II Categories	Year	Reported Offenses	Full Time Equivalent (FTE) *	Offense Ratio
Other Assaults	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Forgery	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Fraud	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Embezzlement	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Receiving Stolen Property	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Vandalism	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Weapons Offenses	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Prostitution	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Sex Offenses	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Drug Offenses	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Gambling	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Offense Against Family	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Driving Under the Influence	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Liquor Law Violations	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Public Drunkenness	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Disorderly Conduct	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
Vagrancy	2011	0	191	0
	2012	0	191	0
	2013	0	191	0
All Other Offenses	2011	0	191	0
	2012	0	191	0
	2013	0	191	0

\* Full Time Equivalent is based on fall semester student and employee population.

## Appendix B: PASSHE Center City Mass Communication Policy

### Policy Statement

This policy covers all mass communications to PASSHE Center City campus faculty, staff, and students. Mass communications are those electronic messages that are sent out via E2campus scribes, building postings and posting on the PASSHE Center City campus homepage. All internal mass communications will refer only to official business or official activities of PASSHE Center City campus

PASSHE Center City campus must exercise appropriate control over electronic communications in order to properly maintain network performance, limit the number of messages, and prevent desensitization that could inhibit the communication of critical information. **As a result, the use of the PASSHE Center City campus E2campus will only be activated in** emergency notifications and timely warnings, weather-related events, and important time-sensitive announcements (as described below).

Note: This policy does not limit or prohibit the use of other methods of dissemination. Communications not covered by this policy would include electronic messages from central service providers about a service they provide (e.g. PASSHE Center City campus (E2campus information Services notifying users that the system will be shut down for maintenance.)

PASSHE Center City campus offers E2campus text messaging subscription service for all faculty, staff, and students to receive notification of major emergencies and timely warnings and strongly encourages subscribing to this important service. There is no cost to register; however, some cell phone providers may apply a small cost per text message sent or received. Subscribers will receive text messages on any device that accepts text messaging (SMS) through cellular service, such as cell phones, text pagers, BlackBerrys, and some wireless PDAs. In addition, there is an option to have messages sent to a personal email address. The PASSHE Center City campus offers this service to notify the campus of emergencies and/or timely warnings. In addition, there is an option to receive weather-related cancellations as well. Subscribe to receive text messages of campus emergencies and/or weather-related cancellations at <http://www.passhecentercity.org/emergency.php>

### Category - Mass Communication

PASSHE Center City campus employs four categories of mass communication:

- Emergency Notifications and Timely Warnings
- Weather-Related Announcements
- Important Time-Sensitive Announcements
- Non-Emergency-General Communications

### Category - Definitions and Distribution Methods



## Emergency Notifications and Timely Warnings

**Emergency Notifications** are required to immediately notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus. An “immediate” threat as used here encompasses an imminent or impending threat such as an approaching fire, as well as a fire currently raging in a campus building. Such notifications shall be provided to students and employees in a manner that is timely, that withholds the names of victims as confidential, and that will aid in the prevention of similar occurrences.

Examples of significant emergencies when an Emergency Notification may be issued:

- Outbreak of meningitis, norovirus or other serious illness
- Approaching weather such as a tornado or hurricane
- Earthquake
- Gas leak
- Terrorist incident
- Armed intruder
- Bomb threat
- Civil Unrest
- Explosion

Emergency Notifications may be issued by some or all of the following methods of communication: emergency text messaging to E2Campus Alert System subscribers, building posting and posting on the PASSHE Center City campus homepage.

**INITIAL EMERGENCY COMMUNICATIONS WILL BE SENT IMMEDIATELY AND WILL CONVEY ONLY THE MOST CRITICAL INFORMATION. DETAILS WILL BE CARRIED ON THE PASSHE CENTER CITY HOMEPAGE, WHICH WILL BE UPDATED AS CIRCUMSTANCES DICTATE.**

**Post Emergency Communication:** The University will issue an “all clear” message to convey the University’s return to normal operations to all faculty, staff and students via text message to E2campus Alert subscribers. Details regarding the incident will be communicated on the University’s homepage.

**Timely warnings** must be issued for the following crimes if the crimes are reported to campus security authorities (CSA) or local police agencies; are considered by the PASSHE Center City campus to represent a serious or continuing threat to students and employees; and occur in certain geographic locations as defined by the *Clery Act*:

- Murder and non-negligent manslaughter
- Negligent manslaughter
- Forcible and non-forcible sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson

Timely warnings will be issued by some or all of the following methods of communication:

- Text messaging to E2campus Alert subscribers
- Building postings by Building Administrators
- Posting on the PASSHE Center City campus homepage

## Weather-Related Announcements

This message category is used to transmit the PASSHE Center City campus class delays or cancellations due to general or typical weather-related events.

Severe weather events that may require those on campus to take shelter will be categorized as a Priority 1— Emergency Notification. Assessment and response to and recovery from emergencies will be conducted within the framework of the PASSHE Center City campus Emergency Operations Plan.

**Communication Distribution Methods:** When storm conditions affect the operation of the University, announcements for class cancellations and/or delays are made via:

- Text message to E2campus Alert subscribers
- Posted on the PASSHE Center City campus homepage at <http://www.passhecentercity.org/emergency.php>
- Broadcast on many radio and TV stations

## Important Time-Sensitive Announcements

This message category involves any potential or actual incident that is local in nature, has limited impact, will not seriously affect the overall functioning of the PASSHE Center City campus, and can usually be handled using PASSHE Center City campus resources. Examples - unscheduled changes to campus procedures or services, service disruptions to buildings, certain construction activity, etc.

***Communication Methods:***

- Building postings by Building Administrators
- Posted on the PASSHE Center City campus homepage

**Non-Emergency-General Announcements / Communications**

This message category is used for general announcements or communications of interest to the PASSHE Center City campus at large.

***Distribution Methods:***

- Building postings by Building Administrators
- Posted on the PASSHE Center City campus homepage



## Appendix C

### Definition of terms as defined by Pennsylvania State criminal statutes

Consent is defined in Pennsylvania criminal law as:

311. Consent.

**(a) GENERAL RULE.** The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negatives an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

**(b) CONSENT TO BODILY INJURY.** When conduct is charged to constitute an offense because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury is a defense if:

**(1)** the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or

**(2)** the consent establishes a justification for the conduct under Chapter 5 of this title (relating to general principles of justification).

**(c) INEFFECTIVE CONSENT.** Unless otherwise provided by this title or by the law defining the offense, assent does not constitute consent if:

**(1)** it is given by a person who is legally incapacitated to authorize the conduct charged to constitute the offense;

**(2)** it is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;

**(3)** it is given by a person whose improvident consent is sought to be prevented by the law defining the offense; or

**(4)** it is induced by force, duress or deception of a kind sought to be prevented by the law defining the offense.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1992-24 (S.B. 3), P.L. 108, 17, approved Apr. 13, 1992, eff. in 60 days.

Sexual assault is defined under the following statutes in Pennsylvania criminal code:

PA Crimes Code

CHAPTER 31.

#### SEXUAL OFFENSES

##### SUBCHAPTER A. GENERAL PROVISIONS

##### SUBCHAPTER B. DEFINITION OF OFFENSES

##### SUBCHAPTER C. LOSS OF PROPERTY RIGHTS

#### SUBCHAPTER A.

##### GENERAL PROVISIONS

3101. Definitions.

3102. Mistake as to age.

3104. Evidence of victims sexual conduct.

3105. Prompt complaint.

3106. Testimony of complainants.

3107. Resistance not required.

3101. Definitions.

Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific provisions of this chapter, the following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

**COMPLAINANT.** An alleged victim of a crime under this chapter.

**DEVIATE SEXUAL INTERCOURSE.** Sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the

genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

**FORCIBLE COMPULSION.** Compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse.

**FOREIGN OBJECT.** Includes any physical object not a part of the actors body.

**INDECENT CONTACT.** Any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in either person.

**SERIOUS BODILY INJURY.** As defined in section 2301 (relating to definitions).

**SEXUAL INTERCOURSE.** In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1984-230 (H.B. 281), P.L. 1210, 1, approved Dec. 21, 1984, eff. immediately; Act 1990-4 (H.B. 1120), P.L. 6, 4, approved Feb. 2, 1990, eff. in 60 days; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 1, approved Mar. 31, 1995, See section of this act for effective date information; Act 2002-162 (H.B. 976), P.L. 1350, 1, approved Dec. 9, 2002, eff. in 60 days; Act 2002-226 (S.B. 1402), P.L. 1953, 1, approved Dec. 16, 2002, eff. in 60 days.

3102. Mistake as to age.

Except as otherwise provided, whenever in this chapter the criminality of conduct depends on a child being below the age of 14 years, it is no defense that the defendant did not know the age of the child or reasonably believed the child to be the age of 14 years or older. When criminality depends on the child's being below a critical age older than 14 years, it is a defense for the defendant to prove by a preponderance of the evidence that he or she reasonably believed the child to be above the critical age.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B. 580), P.L. 120, 1, approved May 18, 1976, eff. in 30 days; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 1, approved Mar. 31, 1995, See section of this act for effective date information.

3104. Evidence of victims sexual conduct.

(a) **GENERAL RULE.** Evidence of specific instances of the alleged victims past sexual conduct, opinion evidence of the alleged victims past sexual conduct, and reputation evidence of the alleged victims past sexual conduct shall not be admissible in prosecutions under this chapter except evidence of the alleged victims past sexual conduct with the defendant where consent of the alleged victim is at issue and such evidence is otherwise admissible pursuant to the rules of evidence.

(b) **EVIDENTIARY PROCEEDINGS.** A defendant who proposes to offer evidence of the alleged victims past sexual conduct pursuant to subsection (a) shall file a written motion and offer of proof at the time of trial. If, at the time of trial, the court determines that the motion and offer of proof are sufficient on their faces, the court shall order an in camera hearing and shall make findings on the record as to the relevance and admissibility of the proposed evidence pursuant to the standards set forth in subsection (a).

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B. 580), P.L. 120, 1, approved May 18, 1976, eff. in 30 days.

3105. Prompt complaint.

Prompt reporting to public authority is not required in a prosecution under this chapter: Provided, however, that nothing in this section shall be construed to prohibit a defendant from introducing evidence of the complainant's failure to promptly report the crime if such evidence would be admissible pursuant to the rules of evidence.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B. 580), P.L. 120, 1, approved May 18, 1976, eff. in 30 days; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 3, approved Mar. 31, 1995, See section of this act for effective date information.

3106. Testimony of complainants.

The credibility of a complainant of an offense under this chapter shall be determined by the same standard as is the credibility of a complainant of any other crime. The testimony of a complainant need not be corroborated in prosecutions under this chapter. No instructions shall be given cautioning the jury to view the complainant's testimony in any other way than that in which all complainants' testimony is viewed.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B. 580), P.L. 120, 2, approved May 18, 1976, eff. in 30 days; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 3, approved Mar. 31, 1995, See section of this act for effective date information.

3107. Resistance not required.

The alleged victim need not resist the actor in prosecutions under this chapter: Provided, however, that nothing in this section shall be construed to prohibit a defendant from introducing evidence that the alleged victim consented to the conduct in question.

Act 1976-53 (H.B. 580), P.L. 120, 2, approved May 18, 1976, eff. in 30 days.

#### SUBCHAPTER B.

#### DEFINITION OF OFFENSES

3121. Rape.

3122.1. Statutory sexual assault.

3123. Involuntary deviate sexual intercourse.

3124.1. Sexual assault.

3124.2. Institutional sexual assault.

3125. Aggravated indecent assault.

3126. Indecent assault.

3127. Indecent exposure.

3129. Sexual intercourse with animal.

3130. Conduct relating to sex offenders. [Effective until December, 20, 2012]

3130. Conduct relating to sex offenders [Effective December 20, 2012]

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 complainants 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.

(6) (Deleted by amendment).

(b) ADDITIONAL PENALTIES. In addition to the penalty provided for by subsection (a), a person may be sentenced to an additional term not to exceed ten years confinement and an additional amount not to exceed \$ 100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainants power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

(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.

(e) SENTENCES. Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

(1) Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.

(2) Subsection (d) shall be sentenced up to a maximum term of life imprisonment.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1984-230 (H.B. 281), P.L. 1210, 1, approved Dec. 21, 1984, eff. in 60 days; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 3, approved Mar. 31, 1995, See section of this act for effective date information; Act 1997-65 (H.B. 1125), P.L. 621, 2, approved Dec. 19, 1997, eff. in 60 days; Act 2002-162 (H.B. 976), P.L. 1350, 2, approved

Dec. 9, 2002, eff. in 60 days; Act 2002-226 (S.B. 1402), P.L. 1953, 1.1, approved Dec. 16, 2002, eff. in 60 days.

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.

Act 1995 Special Session-10 (S.B. 2), P.L. 985, 5, approved Mar. 31, 1995, See section of this act for effective date information; Act 2011-111 (S.B. 1183), 1, approved Dec. 20, 2011, eff. in 60 days.

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 complainants 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.

(d) **SENTENCES.** Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

- (1) Subsection (b) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.
- (2) Subsection (c) shall be sentenced up to a maximum term of life imprisonment.

(e) **DEFINITION.** As used in this section, the term forcible compulsion includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 6, approved Mar. 31, 1995, See section of this act for effective date information; Act 2002-162 (H.B. 976), P.L. 1350, 2, approved Dec. 9, 2002, eff. in 60 days; Act 2002-226 (S.B. 1402), P.L. 1953, 1.1, approved Dec. 16, 2002, eff. in 60 days.

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 complainants consent.

Act 1995 Special Session-10 (S.B. 2), P.L. 985, 8, approved Mar. 31, 1995, See section of this act for effective date information.

3124.2. Institutional sexual assault.

(a) GENERAL RULE. Except as provided under subsection (a.1) and in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident.

(a.1) INSTITUTIONAL SEXUAL ASSAULT OF A MINOR. A person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, state or county juvenile detention facility, other licensed residential facility serving children and youth or a mental health or a mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident who is under 18 years of age.

(a.2) SCHOOLS.

(1) Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a school or any other person who has direct contact with a student at a school commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a student of the school.

(2) As used in this subsection, the following terms shall have the meanings given to them in this paragraph:

(i) Direct contact. Care, supervision, guidance or control.

(ii) Employee.

(A) Includes:

(I) A teacher, a supervisor, a supervising principal, a principal, an assistant principal, a vice-principal, a director of vocational education, a dental hygienist, a visiting teacher, a home and school visitor, a school counselor, a child nutrition program specialist, a school librarian, a school secretary the selection of whom is on the basis of merit as determined by eligibility lists, a school nurse, a substitute teacher, a janitor, a cafeteria worker, a bus driver, a teacher aide and any other employee who has direct contact with school students.

(II) An independent contractor who has a contract with a school for the purpose of performing a service for the school, a coach, an athletic trainer, a coach hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association or an athletic trainer hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association.

(B) The term does not include:

(I) A student employed at the school.

(II) An independent contractor or any employee of an independent contractor who has no direct contact with school students.

(iii) School. A public or private school, intermediate unit or area vocational-technical school.

(iv) Volunteer. The term does not include a school student.

(a.3) CHILD CARE. Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a center for children commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is receiving services at the center.

(b) DEFINITIONS. As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

Agent. A person who is assigned to work in a State or county correctional or juvenile detention facility, a youth development center, youth forestry camp, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution, who is employed by any State or county agency or any person employed by an entity providing contract services to the agency.

Center for children. Includes a child day-care center, group and family day-care home, boarding home for children, a center providing early intervention and drug and alcohol services for children or other facility which provides child-care services which are subject to approval, licensure, registration or certification by



the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with the department or a county social services agency. The term does not include a youth development center, youth forestry camp, State or county juvenile detention facility and other licensed residential facility serving children and youth.

Act 1998-157 (H.B. 689), P.L. 1240, 1, approved Dec. 21, 1998, eff. in 60 days; Act 2000-12 (S.B. 1047), P.L. 38, 1, approved May 10, 2000, eff. immediately; Act 2011-111 (S.B. 1183), 1, approved Dec. 20, 2011, eff. in 60 days.

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 complainants 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 complainants 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.

(c) GRADING AND SENTENCES.

(1) An offense under subsection (a) is a felony of the second degree.

(2) An offense under subsection (b) is a felony of the first degree.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1973-117 (S.B. 513), P.L. 341, 1, approved Nov. 28, 1973, eff. in 60 days; Act 1990-4 (H.B. 1120), P.L. 6, 5, approved Feb. 2, 1990, eff. in 60 days; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 9, approved Mar. 31, 1995, See section of this act for effective date information; Act 2002-162 (H.B. 976), P.L. 1350, 2, approved Dec. 9, 2002, eff. in 60 days; Act 2002-226 (S.B. 1402), P.L. 1953, 1.1, approved Dec. 16, 2002, eff. in 60 days.

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 complainants 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 complainants 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.

(b) GRADING. Indecent assault shall be graded as follows:

(1) An offense under subsection (a)(1) or (8) is a misdemeanor of the second degree.

(2) An offense under subsection (a)(2), (3), (4), (5) or (6) is a misdemeanor of the first degree.

(3) An offense under subsection (a)(7) is a misdemeanor of the first degree unless any of the following apply, in which case it is a felony of the third degree:

(i) It is a second or subsequent offense.

(ii) There has been a course of conduct of indecent assault by the person.

(iii) The indecent assault was committed by touching the complainant's sexual or intimate parts with sexual or intimate parts of the person.

(iv) The indecent assault is committed by touching the person's sexual or intimate parts with the complainant's sexual or intimate parts.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B. 580), P.L. 120, 1, approved May 18, 1976, eff. in 30 days; Act 1990-4 (H.B. 1120), P.L. 6, 6, approved Feb. 2, 1990, eff. in 60 days; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 9, approved Mar. 31, 1995, See section of this act for effective date information; Act 2005-76 (H.B. 1400), P.L. 412, 1, approved Nov. 23, 2005, eff. in 60 days.

3127. Indecent exposure.

(a) OFFENSE DEFINED. A person commits indecent exposure if that person exposes his or her genitals in any public place or in any place where there are present other persons under circumstances in which he or she knows or should know that this conduct is likely to offend, affront or alarm.

(b) GRADING. If the person knows or should have known that any of the persons present are less than 16 years of age, indecent exposure under subsection (a) is a misdemeanor of the first degree.

Otherwise, indecent exposure under subsection (a) is a misdemeanor of the second degree.

Act 1972-334 (S.B. 455), P.L. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1995 Special Session-10 (S.B. 2), P.L. 985, 9, approved Mar. 31, 1995, See section of this act for effective date information.

3129. Sexual intercourse with animal.

A person who engages in any form of sexual intercourse with an animal commits a misdemeanor of the second degree.

Act 1999-8 (H.B. 124), P.L. 67, 1, approved June 18, 1999, eff. in 60 days.

3130. Conduct relating to sex offenders. [Effective until December, 20, 2012]

(a) OFFENSE DEFINED. A person commits a felony of the third degree if the person has reason to believe that a sex offender is not complying with or has not complied with the requirements of the sex offenders probation or parole, imposed by statute or court order, or with the registration requirements of 42 Pa.C.S. 9795.2 (relating to registration procedures and applicability), and the person, with the intent to assist the sex offender in eluding a law enforcement agent or agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of the sex offenders probation or parole or the requirements of 42 Pa.C.S. 9795.2:

(1) withholds information from or does not notify the law enforcement agent or agency about the sex offenders noncompliance with the requirements of parole, the requirements of 42 Pa.C.S. 9795.2 or, if known, the sex offenders whereabouts;

(2) harbors or attempts to harbor or assist another person in harboring or attempting to harbor the sex offender;

(3) conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or

(4) provides information to the law enforcement agent or agency regarding the sex offender which the person knows to be false.

(b) DEFINITION. As used in this section, the term sex offender means a person who is required to register with the Pennsylvania State Police pursuant to the provisions of 42 Pa.C.S. 9795.1 (relating to registration).

Act 2006-178 (S.B. 944), P.L. 1567, 1, approved Nov. 29, 2006, eff. Jan. 1, 2007.

3130. Conduct relating to sex offenders [Effective December 20, 2012]

(a) OFFENSE DEFINED. A person commits a felony of the third degree if the person has reason to believe that a sex offender is not complying with or has not complied with the requirements of the sex offenders probation or parole, imposed by statute or court order, or with the registration requirements of 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), and the person, with the intent to assist the sex offender in eluding a law enforcement agent or agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of the sex offenders probation or parole or the requirements of 42 Pa.C.S. Ch. 97 Subch. H:

(1) withholds information from or does not notify the law enforcement agent or agency about the sex offenders noncompliance with the requirements of parole, the requirements of 42 Pa.C.S. Ch. 97 Subch. H or, if known, the sex offenders whereabouts;

(2) harbors or attempts to harbor or assist another person in harboring or attempting to harbor the sex offender;

(3) conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or

(4) provides information to the law enforcement agent or agency regarding the sex offender which the person knows to be false.

(b) DEFINITION. As used in this section, the term sex offender means a person who is required to register with the Pennsylvania State Police pursuant to the provisions of 42 Pa.C.S. Ch. 97 Subch. H. Act 2006-178 (S.B. 944), P.L. 1567, 1, approved Nov. 29, 2006, eff. Jan. 1, 2007; Act 2011-111 (S.B. 1183), 1, approved Dec. 20, 2011, eff. in 1 year.

#### SUBCHAPTER C.

#### LOSS OF PROPERTY RIGHTS

3141. General rule. [Effective until December 20, 2012]

3141. General rule. [Effective December 20, 2012]

3142. Process and seizure.

3143. Custody of property.

3144. Disposal of property.

3141. General rule. [Effective until December 20, 2012]

A person:

(1) convicted under section 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault) or 3126 (relating to indecent assault); or

(2) required to register with the Pennsylvania State Police under 42 Pa.C.S. 9795.2 (relating to registration procedures and applicability);

may be required to forfeit property rights in any property or assets used to implement or facilitate commission of the crime or crimes of which the person has been convicted. Such property may include, but is not limited to, a computer or computers, telephone equipment, firearms, licit or illicit prescription drugs or controlled substances, a motor vehicle or such other property or assets as determined by the court of common pleas to have facilitated the persons criminal misconduct.

Act 2006-178 (S.B. 944), P.L. 1567, 2, approved Nov. 29, 2006, eff. Jan. 1, 2007.

3141. General rule. [Effective December 20, 2012]

A person:

(1) convicted under section 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault) or 3126 (relating to indecent assault); or

(2) required to register with the Pennsylvania State Police under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders);

may be required to forfeit property rights in any property or assets used to implement or facilitate commission of the crime or crimes of which the person has been convicted. Such property may include, but is not limited to, a computer or computers, telephone equipment, firearms, licit or illicit prescription drugs or controlled substances, a motor vehicle or such other property or assets as determined by the court of common pleas to have facilitated the persons criminal misconduct.

Act 2006-178 (S.B. 944), P.L. 1567, 2, approved Nov. 29, 2006, eff. Jan. 1, 2007; Act 2011-111 (S.B. 1183), 1, approved Dec. 20, 2011, eff. in 1 year.

3142. Process and seizure.

(a) SEIZURE. Property subject to forfeiture under this section may be seized by law enforcement authority upon process issued by the court of common pleas having jurisdiction over the person or property.

(b) SEIZURE WITHOUT PROCESS. Seizure without process may be made if the seizure is incident to an arrest or a search under a search warrant and there is probable cause to believe that the property was or is material to the charges for which the arrest or search warrant was issued. In seizures without process, proceedings for the issuance thereof shall be instituted immediately.

(c) RETURN OF PROPERTY. Property belonging to someone other than the convicted sex offender or registrant shall be returned if the offense was committed without the knowledge or consent of the owner.

Act 2006-178 (S.B. 944), P.L. 1567, 2, approved Nov. 29, 2006, eff. Jan. 1, 2007.

3143. Custody of property.

Property taken or detained under this subchapter is deemed to be the property of the law enforcement authority having custody thereof and is subject only to the court of common pleas having jurisdiction over the criminal or forfeiture proceedings, the district attorney in the matter or the Attorney General.

Act 2006-178 (S.B. 944), P.L. 1567, 2, approved Nov. 29, 2006, eff. Jan. 1, 2007.

3144. Disposal of property.

Property taken or detained pursuant to the provisions of this subchapter shall be sold in the manner of property forfeited under 42 Pa.C.S. Ch. 68 (relating to forfeitures). The net proceeds, as determined by the law enforcement authority having custody thereof, shall be utilized for investigation or prosecution of sexual offenses or donated to nonprofit charitable institutions which provide counseling and other assistance to victims of sexual offenses.

Act 2006-178 (S.B. 944), P.L. 1567, 2, approved Nov. 29, 2006, eff. Jan. 1, 2007.

### **Domestic Violence is defined in Pennsylvania criminal statutes as:**

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).

(b) SEIZURE OF WEAPONS. The arresting police officer shall seize all weapons used by the defendant in the commission of the alleged offense.

(c) BAIL.

(1) A defendant arrested pursuant to this section shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. In no case shall the arresting officer release the defendant from custody rather than taking the defendant before the issuing authority.

(2) In determining whether to admit the defendant to bail, the issuing authority shall consider whether the defendant poses a threat of danger to the victim. If the issuing authority makes such a determination, it shall require as a condition of bail that the defendant shall refrain from entering the residence or household of the victim and the victim's place of employment and shall refrain from committing any further criminal conduct against the victim and shall so notify the defendant thereof at the time the defendant is admitted to bail. Such condition shall expire at the time of the preliminary hearing or upon the entry or the denial of the protection of abuse order by the court, whichever occurs first. A violation of this condition may be punishable by the revocation of any form of pretrial release or the forfeiture of bail.

and the issuance of a bench warrant for the defendants arrest or remanding him to custody or a modification of the terms of the bail. The defendant shall be provided a hearing on this matter.

(d) NOTICE OF RIGHTS.

Upon responding to a domestic violence case, the police officer shall, orally or in writing, notify the victim of the availability of a shelter, including its telephone number, or other services in the community. Said notice shall include the following statement: If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) which could include the following:

- (1) An order restraining the abuser from further acts of abuse.
- (2) An order directing the abuser to leave your household.
- (3) An order preventing the abuser from entering your residence, school, business or place of employment.
- (4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
- (5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

Act 1986-10 (H.B. 350), P.L. 27, 1, approved Feb. 15, 1986, eff. in 60 days; Act 1990-206 (H.B. 1023), P.L. 1240, 3, approved Dec. 19, 1990, eff. in 90 days; Act 2000-101 (S.B. 1444), P.L. 728, 1, approved Dec. 20, 2000, eff. in 60 days; Act 2002-218 (S.B. 1515), P.L. 1759, 3, approved Dec. 9, 2002, eff. in 60 days.

Title 23 – Domestic Relations - Definitions

(a) General rule.--The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Abuse." The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

- (1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon.
- (2) Placing another in reasonable fear of imminent serious bodily injury.
- (3) The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).
- (4) Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).
- (5) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).

"Adult." An individual who is 18 years of age or older.

"Certified copy." A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court. A raised seal on the copy of the order of the issuing court shall not be required.

"Comparable court." A foreign court that:

- (1) has subject matter jurisdiction and is authorized to issue ex parte, emergency, temporary or final protection orders in that jurisdiction; and
- (2) possessed jurisdiction over the parties when the protection order was issued in that jurisdiction.

"Confidential communications." All information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports, statistical data, memoranda or working papers, records or the like, given or made in the course of the relationship. The term also includes communications made by or to a linguistic interpreter assisting the victim, counselor or advocate in the course of the relationship.

"Domestic violence counselor/advocate." An individual who is engaged in a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence, who has undergone 40 hours of training.

"Domestic violence program." A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims which include, but are not limited to, crisis hotline; safe homes or shelters; community education; counseling systems intervention and interface; transportation, information and referral; and victim assistance.

"Family or household members." 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.

"Firearm." Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon as defined by 18 Pa.C.S. § 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

"Foreign protection order." A protection order as defined by 18 U.S.C. § 2266 (relating to definitions) issued by a comparable court of another state, the District of Columbia, Indian tribe or territory, possession or commonwealth of the United States.

"Hearing officer." A magisterial district judge, judge of the Philadelphia Municipal Court, arraignment court magistrate appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue), master appointed under 42 Pa.C.S. § 1126 (relating to masters) and master for emergency relief.

"Master for emergency relief." A member of the bar of the Commonwealth appointed under section 6110(e) (relating to emergency relief by minor judiciary).

"Minor." An individual who is not an adult.

"Other weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term does not include a firearm.

"Safekeeping permit." A permit issued by a sheriff allowing a person to take possession of any firearm, other weapon or ammunition that a judge ordered a defendant to relinquish in a protection from abuse proceeding.

"Secure visitation facility." A court-approved visitation program offered in a facility with trained professional staff operated in a manner that safeguards children and parents from abuse and abduction.

"Sheriff."

(1) Except as provided in paragraph (2), the sheriff of the county.

(2) In a city of the first class, the chief or head of the police department.

"Victim." A person who is physically or sexually abused by a family or household member. For purposes of section 6116 (relating to confidentiality), a victim is a person against whom abuse is committed who consults a domestic violence counselor or advocate for the purpose of securing advice, counseling or assistance. The term shall also include persons who have a significant relationship with the victim and who seek advice, counseling or assistance from a domestic violence counselor or advocate regarding abuse of the victim.

"Weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term includes a firearm which is not loaded or lacks a magazine, clip or other components to render it immediately operable and components which can readily be assembled into a weapon as defined by 18 Pa.C.S. § 907 (relating to possessing instruments of crime).

(b) Other terms.--Terms not otherwise defined in this chapter shall have the meaning given to them in 18 Pa.C.S. (relating to crimes and offenses).

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days)

Dating Violence is defined in Pennsylvania criminal statutes as:

No separate state statute is provided in Pennsylvania criminal law for Dating Violence. Covered under Title 23 – Domestic Relations

Stalking is defined in Pennsylvania criminal statutes as:

PA CRIMES CODE

- (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 conduct by a party to a labor dispute as defined in the act of June 2, 1937 (P.L. 1198, No. 308), known as the Labor Anti-Injunction Act, or to any 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.

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