

STUDENT CODE OF CONDUCT



2011-2012

THE STUDENT CODE OF CONDUCT & JUDICIAL PROCESS

SCOPE OF THE POLICY

In addition to providing a sound educational environment for intellectual pursuits, Millersville University is concerned with developing socially responsible citizens, ensuring the welfare and freedom of all members of the University community, and protecting individual rights. The University is concerned with student conduct and has adopted rules and behavioral standards for its students. Disciplinary action may be imposed when a student fails to recognize or violates the rights and privileges of other individuals or behaves in a manner inconsistent with University policies both on and off campus.

The Student Code of Conduct reflects the University community's concern that the highest standards be maintained by students and student organizations on our campus and in our communities. It guarantees due process and protects the individual freedom of the student as well as requires his or her responsibility for conduct violations. This Code shall be applicable to all students and student organizations at Millersville University.

The student may be held responsible for violations of local, state and federal laws. University disciplinary actions may be taken in place of, or in addition to actions taken by civil or criminal courts.

PREAMBLE

The Student Code of Conduct supports Millersville University's educational mission by setting forth standards of behavior for students and student organizations that are intended to sustain an environment for educational pursuits and individual development. The Code of Conduct also establishes due process procedures and sanctions that respect individual rights and freedoms. The University takes an educational approach to the enforcement of the Code of Conduct, intending that adherence to the Code will be a means for students to learn the importance of their responsibilities and the value of their rights.

JURISDICTION

The Code of Conduct applies to all students of Millersville University. "Student" for the purposes of the Code of Conduct refers to any person who makes a deposit indicating intention to enroll at the University, including participation in a course, or participation in a University-sponsored program—whether

full-time, part-time, undergraduate, graduate or professional program. Persons who are not enrolled for a particular semester but who otherwise have a continuing contractual relationship including Medical Leave of Absence with the University are considered “student” for the purpose of this code. The classification of student is not limited to the physical campus of the University. Concern for the conduct of students extends to satellite and remote physical locations wherever University operations are conducted, including the virtual learning environs of a student, (i.e., the Internet).

The Code also applies to any group of students who have complied with the University requirements for recognition as a student organization. Members of a student organization may be individually held responsible or charged as a group for infractions and violations to the Code.

A. TERMS USED IN THIS DOCUMENT – DEFINITIONS

1. The term “University” means Millersville University of Pennsylvania also referred to as Millersville University.
2. The term “faculty member” means any person defined as a member of the faculty in the APSCUF Collective Bargaining Agreement.
3. A “staff member” is a University employee who is not a faculty member.
4. The term “University official” includes any person employed by the University, performing assigned administrative or professional responsibilities.
5. The term “University campus” includes all property owned or leased by Millersville University.
6. The term “Judicial Affairs Director” refers to the administrator within the Division of Student Affairs who is responsible for overseeing the overall operations of the conduct process.
7. The term “Judicial Affairs Coordinator” means a Student Affairs or Housing & Residential Programs staff member designated by the Vice President for Student Affairs or Judicial Affairs Director to hold disciplinary hearings including the Administrative Hearing, impose sanctions, manage student conduct records and administer the Student Code of Conduct.
8. “Complainant” refers to the person who is reporting the alleged violation. In some cases the Millersville University Police Department, serving in the best interest of the University, may act as the Complainant.

9. “Accused Student” refers to any student accused of violating the Student Code of Conduct.
10. The term “shall” is used in the imperative sense.
11. The term “may” is used in the permissive sense.
12. The term “designee” means a person authorized to make decisions on behalf of the named administrator in his/her absence or on behalf of that administrator.
13. The term “class days” refers to days when classes are held.
14. “Administrative Hearing” refers to the lowest level of review in the conduct process. This hearing is conducted by the Judicial Affairs Coordinator.
15. “University Conduct Board Hearing” refers to a new hearing (de novo), which can result when the charges rise to a higher level, or if there is disagreement among the parties in the Administrative Hearing. Members are chosen from among the staff, faculty and students. The University Conduct Board is charged with determining whether a student/student organization has violated the Code of Conduct and recommending sanctions.
16. The term “student organization” refers to any number of students who have complied with the formal requirements to be sanctioned as a student organization at the University.
17. “Good Standing” is defined as having no outstanding disciplinary sanctions or disciplinary actions pending. Students must be in “good standing” to receive a degree from the University.
18. The term “Judicial Advocate” refers to a resource for students going through or involved in the judicial process at Millersville University. The Advocates are well trained in the judicial process and are neutral parties that have no influence on the outcome of the case.

B. CODE OF CONDUCT

All students or student organizations are responsible for abiding by all rules and regulations as set forth in the Code of Conduct. Students will be held responsible for their conduct regardless of their place of residence or whether their conduct occurred on or off campus.

1. Conduct that may also be in violation of federal, state or local law including violations of Millersville Borough ordinances. Application of

the Student Code of Conduct may proceed without a finding by a criminal or civil court.

2. Acts that cause harm to another person or oneself or threaten or endanger the health or safety of another person or oneself or constitute harassing conduct. The prohibited conduct may be intentional or reckless and includes but is not limited to:
 - a. Physical Violence (striking, shoving or subjecting another person to unwanted physical contact)
 - b. Sexual Misconduct (Sexual misconduct can be defined as any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, and attempted rape.) Sexual misconduct occurs when imposed under any of the following circumstances:
 1. When the complainant is incapable of giving legal consent for mental, developmental, or physical reasons and this fact is known or reasonably should have been known by the person committing the act;
 2. When the act is committed without the person's explicit consent or is against the person's wishes. Rape incorporates any or all of the following: the use of force, threat, intimidation, coercion, duress, violence, or by causing a reasonable fear of harm;
 3. When the complainant is prevented from consenting or resisting because of intoxication or unconsciousness at the time of the act.
 - c. Harassing, intimidating, or threatening conduct
 1. Exhibiting behavior that threatens to harm another person or another person's property. This includes, but is not limited to harassing, intimidating or threatening conduct, physical harm, or conduct that results in property damage.
 2. Exhibiting threatening, intimidating, or harassing conduct toward a University employee related to the performance of his or her job.
 3. Exhibiting threatening, intimidating, or harassing conduct toward any party or witness involved in a judicial case, or causing or attempting to cause damage to his or her property, with the intent of influencing outcomes or for retaliation.

4. Hazing or harassing another person for the purpose of initiation or maintaining group affiliation. Hazing is defined as any action which endangers the mental or physical health or safety of a student, with or without his/her consent.
 5. Stalking—a pattern of repeated and unwanted attention, contact, or any other course of harassing conduct directed at a specific person that would cause a reasonable person to feel fear.
 6. Conduct that constitutes unlawful discrimination based on another person's race, color, sex, religion, age or national origin.
3. Conduct which is disorderly, disruptive, or interferes with orderly University operations, including but not limited to:
 - a. Failure to comply with directions given by law enforcement officers and duly authorized University officials in the performance of their duties.
 - b. Failure to evacuate University buildings for fire alarms.
 - c. Creating excessive noise or commotion.
 - d. Disrupting scheduled University programs and activities.
 - e. Public drunkenness.
 - f. Obstructing vehicular and pedestrian traffic.
 - g. Deliberate acts that interfere with the use of University electronic resources.
 - h. False reporting of an emergency.
 4. Behavior that constitutes theft or misappropriation or attempted theft or misappropriation of University property or funds, including its electronic resources, or the property or funds of another person, entity or organization.
 5. Deliberate or negligent acts that endanger and/or result in damage or vandalism to University property, including its electronic resources, or the property of others.
 6. Conduct threatening the welfare of others including but not limited to the possession or use of fireworks and other explosive materials,

firearms and other weapons, setting unauthorized fires, misusing or damaging fire fighting and fire safety equipment.

7. Acts constituting trespass. Trespassing is defined as: Acts constituting unauthorized possession, duplication, or use, transfer, or access of University keys or ID's, or unauthorized entry to or use of University property or facilities, including electronic systems.
8. Conduct involving the use, possession or distribution of alcoholic beverages on campus or in violation of the law off campus.
9. Acts involving the use, possession or distribution of narcotic or other controlled substances except as permitted by law.
10. Conduct defined as dishonesty including but not limited to:
 - a. Furnishing false information to any University employee orally, in writing or electronically.
 - b. Forging, altering or misusing any University document, record or instrument of identification.
11. Use of University-provided funds in the process of violating the Student Code of Conduct.
12. Conduct that interferes with the Student Code of Conduct procedures including but not limited to:
 - a. Failing to appear when directed to do so by the Vice President for Student Affairs or his/her designee, the Judicial Affairs Director or his/her designee, or the University Conduct Board and when charged with a violation of the Student Code of Conduct.
 - b. Failing to comply with a sanction imposed by either the Judicial Affairs Director or his/her designee, the Associate Provost, the University's Conduct Board, Vice President for Student Affairs or the President of the University.
13. Conspiring to commit a violation of the Student Code of Conduct.
14. Conduct that violates published University policies, rules, and regulations including but not limited to residence hall rules and regulations and the Policy for Responsible Use. Reference <http://www.millersville.edu/pfru.php>.

C. PROCEDURES FOR REPORTING AND RESPONDING TO ALLEGED CODE VIOLATIONS

1. Any member of the University community may report alleged violations of the Student Code of Conduct to the Judicial Affairs Director in Harbold Hall. All reports of violations of the Student Code of Conduct must be in writing and should be submitted as soon as possible.
2. The Judicial Affairs Director will determine whether there are sufficient grounds to charge a student or student organization with violating Section B. of the Student Code of Conduct.
3. The University conduct process may proceed independent of any pending criminal or civil charges and actions. The conduct process outcome including sanctions in the University conduct process will be determined independent of other criminal or civil proceedings. A criminal conviction is not a requirement for the University to take appropriate action under the Student Code of Conduct and Judicial Process.
4. Students will be notified in writing when a complaint of an alleged violation has been received by the Judicial Affairs Coordinator. The student shall respond as required by the notice. Failure to respond accordingly to notice may result in further disciplinary charges.

D. HEARING PROCEDURES

Students or student organizations that are reported for violations to the code as outlined in Section B. of this document are subject to University disciplinary action.

The following procedures apply to both the Administrative Hearing and University Conduct Board (de novo) Hearing when violations to Section B. occur.

1. Upon receipt of accusations of violations of the Student Code of Conduct, the Judicial Affairs Coordinator will conduct an Administrative Hearing. To schedule the hearing, the student or student organization will be contacted in writing by the Judicial Affairs Coordinator.
2. The accused student or student organization shall hear and may question witnesses as well as examine the evidence and documents presented.

3. The accused student or student organization shall be allowed to introduce witness testimony, relevant evidence and his/her version of the events that resulted in the accusation of a violation of the Code of Conduct.
4. An accused student or student organization may decline to answer questions posed during a hearing. The refusal of the accused to answer questions shall not be considered as evidence of a violation of the Code.
5. All parties testifying at hearings shall be advised of their responsibility to tell the truth before testifying.
6. The accused may bring an advisor or Judicial Advocate who may consult with and advise the accused student but may not otherwise participate in the hearing. If the advisor charges a fee, the fee will be borne by the student. In a case involving possible criminal or civil charges, the student(s) will be permitted to have an attorney serve as his/her advisor, but the attorney participation will be limited to advising the accused student. The attorney may not question witnesses or participate otherwise in the hearing.
7. Only those individuals involved with the proceedings will be admitted to the hearing.
8. The Judicial Affairs Director, his or her designee, or the University Conduct Board shall decide that a violation of the Code of Conduct occurred if it is proven that it is more likely than not that such a violation occurred.
9. Administrative Hearing decisions and penalties imposed shall be provided to the accused student or student organization in writing and shall include information about the student's rights to a de novo hearing before the University Conduct Board. Possible sanctions are outlined in Section G.
10. Failure of the accused to appear at a hearing when duly notified is a violation of B.12 in this code and may result in a decision without benefit of the testimony of the accused; a rescheduled hearing; and/or an additional charge of violation. If a student organization is charged with violating the Code of Conduct, the organization's president or his/her designee will attend the hearing.
11. All hearing procedures shall be carried out in a timely fashion adhering to the following guidelines.

- a. All charges of a violation as well as the date, time and place of the hearing shall be provided in writing to the accused student or student organization.
- b. The Judicial Affairs Director, his/her designee, or the University Conduct Board shall consider the evidence presented by the parties and determine if a violation of the code occurred. The Judicial Affairs Director or University Conduct Board shall inform the accused of the decision. If additional time is required to render a decision, the accused student or student organization shall be informed of the decision within five class days of the hearing conclusion. All decisions will be communicated in writing to the accused student or student organization.
- c. The student or student organization has the right to an appeal if he/she denies responsibility of the violation or does not agree with the sanction(s) imposed. The appeal must be made in writing (Administrative Appeal Hearing Form) within five days of the Administrative Hearing and delivered to the office of the Vice President for Student Affairs. The appeal will then be heard by the University Conduct Board.

E. UNIVERSITY CONDUCT BOARD (DE NOVO) HEARING PROCEDURES

The following procedures apply to University Conduct Board Hearings only.

1. After completing and submitting the Administrative Appeal Hearing Form, a student or student organization will be granted a new (de Novo) hearing before the University Conduct Board.
2. Board Membership:
 - a. The President of the University shall appoint a chairperson and a chairperson alternate from the Board membership or alternates.
 - b. Two student members, at least one of whom shall live in a residence hall, will be elected by the Student Senate for terms of one year. Students who have previously been on probation or who have received more serious disciplinary sanctions as defined in this document may not serve on the University Conduct Board.
 - c. The Faculty Senate for overlapping terms of two years shall elect two faculty members.

- d. The Vice President of Student Affairs shall appoint a staff member.
 - e. There shall be three alternates: a student elected by the Student Senate, a faculty member elected by the Faculty Senate and a staff member appointed by the Vice President for Student Affairs. The alternates will serve in the absence of University Conduct Board Members.
 - f. A minimum of three Board members (one faculty member, one student and one staff member) must be present at a de Novo hearing.
 - g. If a member of the Board has been involved in any way in a case to be heard or if he/she feels unable to render a fair decision, he/she must disqualify him/herself from the hearing. If it is determined by the Board Chairperson that a member of the Board is unable to render a fair decision, the Chairperson may disqualify the Board member from the hearing. An accused student may request that a Board member be disqualified if he/she feels the member is unable to make a fair decision. The Chairperson reserves the right to approve or deny the accused student's request.
3. Those present at a University Conduct Board hearing shall be limited to the Board members and Chairperson; the accused student and his/her advisor; the Judicial Affairs Director or his/her designee; and the Associate Vice President for Student Affairs Witnesses shall be present as called.
 4. The Judicial Affairs Director shall convene the board to conduct a hearing. The University Conduct Board members and the accused shall be notified of the time, date and location of the hearing by the Chairperson. The accused will notify his/her witnesses. The Complainant shall notify witnesses he/she wishes to have attend the hearing.
 5. University Conduct Board hearings shall conform to the following:
 - a. A minimum of three members (the Chairperson, a faculty member and a student) must be present to proceed.
 - b. The University Conduct Board shall hold de novo hearings without regard to the outcome of Administrative Hearings.
 - c. A recording of the hearing, not including the board deliberations, shall be made. The recording shall be the property of the University. Copies shall be available to the accused student or student organiza-

tion at the request of the accused. The accused shall be responsible for all costs.

- d. The Chairperson shall explain the order of proceedings established by the University Conduct Board.
 1. The Complainant will present the charges and will provide supporting evidence including witnesses.
 2. The accused student or student organization shall present their case and call witnesses on their behalf.
 3. The University Conduct Board, accused student or student organization shall have the authority to question witnesses.
 4. After hearing statements by the accused and witnesses the University Conduct Board shall deliberate in private. The technical rules of evidence applicable to civil and criminal cases shall not apply to the University judicial process. Upon reviewing all of the facts and the evidence, the University Conduct Board shall determine (by majority vote) whether the Accused Student has violated the Code of Conduct. Each alleged violation will be considered.
 5. In University Conduct Board hearings involving more than one accused student, the Judicial Affairs Director will make the determination to have the cases heard jointly or separately.
 6. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the University Conduct Board at the discretion of the Chairperson.
 7. All procedural questions are subject to the final decision of the Chairperson of the University Conduct Board.
 8. In matters of a safety and/or security risk to the campus the President reserves the right to institute measures to protect the safety and well-being of the campus. Measures may include but are not limited to a review of the evidentiary record as well as modification of the sanction of the University Conduct Board. In such matters the President will have sole discretion to ensure the safety of the University.
 9. If the University Conduct Board in a de novo hearing concludes that the accused student or student organization has violated the Code of Conduct, the University Conduct Board shall recommend

to the Judicial Affairs Director a Code of Conduct sanction of its choosing. When determining its own sanction in de novo hearings, the University Conduct Board may consider and alter the sanction previously imposed at the Administrative Hearing.

10. A student/student organization may appeal decisions made by the University Conduct Board to the President of the University. Procedures for doing so are described in Section H.

F. DISCIPLINARY SANCTIONS

The following sanctions are general University sanctions that may be imposed. They are listed in order of increasing severity. This list is not intended to be exhaustive, and the University and its agents reserve the right to impose additional sanctions to ensure the highest standards of conduct. Counseling, treatment programs, restrictions from facilities, or other conditions may be imposed when deemed appropriate.

The Judicial Affairs Director has oversight for monitoring the compliance of sanctions. Non-compliance with imposed sanctions shall result in holds placed on future registration, receipt of diplomas, or other administrative actions deemed appropriate. It should be noted that non-compliance with mandated sanctions may result in the loss of University scholarships.

The University may impose any of the following sanctions listed below on students or student organizations found in violation of the Student Code of Conduct.

1. Sanctions for Individual Students

- a. Reprimand - A student shall be warned in writing not to violate the Student Code of Conduct in the future. Additional violations may result in more serious disciplinary action.
- b. Probation - Designated for a period of not less than six months. Additional violations during this period shall result in more serious disciplinary action.
- c. Suspension - The loss of privileges of enrollment for a designated period of time that prohibits a student from being present without permission on the property of any campus. Readmission is contingent upon completion of the suspension period, fulfillment of terms, if any, and approval of the Vice President for Student Affairs or his/her designee.

- d. Interim Suspension or Loss of Privileges - Pending final action on charges of violating the Student Code of Conduct, the student may be subject to immediate suspension or loss of privileges if it is determined by the Vice President for Student Affairs that the student's presence on campus may constitute a threat to the health, safety and welfare of the University community. If a student is placed on interim suspension, an Administrative Hearing will be scheduled within ten class days to determine a final sanction. Unless extenuating circumstances prevent the facilitation of a hearing, the reversal of an interim suspension shall not be construed as a determination that the student is not in violation of the Student Code of Conduct. The University reserves the right to extend the required time period for exceptions based on the health and/or mental health concerns that may impede the student's ability to effectively participate on his/her on behalf. In such matters the Vice President for Student Affairs will have sole discretion.
 - e. Expulsion - The student is separated from the University permanently. There are no provisions for the readmission of the student in the future.
2. The following sanctions may be used in combination with the sanctions set forth above:
- a. Educational Sanction - A student may be required to attend an educational program, participate in a community service project or produce an educational project.
 - b. Loss of Privileges - A student/student organization may be denied specific privileges for a designated period of time. These privileges include but are not limited to access to specific buildings, facilities, residence hall assignment, and participation in extracurricular activities.
 - c. Restitution - Payment for property loss or damage, or other losses such as medical bills.
 - d. Referral - A student may be required to seek evaluation through the University's Counseling and Human Development Center or another counseling resource and comply with the recommendations that result from the evaluation.

- e. Parental Notification - A student's parent or guardian may be notified of the disciplinary incident and the student's disciplinary record in accordance with the Family Educational Records Privacy Act.

3. Student Organizations

- a. Reprimand - Student organization executive leadership shall be warned in writing to refrain from continuing the conduct in question. Continuation of the conduct may result in more serious consequences.
- b. Deactivation - Temporary loss of University recognition and campus privileges for a designated period of time. A student organization deactivation shall not exceed five years.
- c. Termination of University Recognition - The organization is not eligible for reinstatement for a minimum of five (5) years. Reinstatement of an organization's charter can only be granted by the Vice President for Student Affairs. Consideration for reinstatement must be accompanied by a written proposal developed under the guidance of the Director of Student Programs. The proposal for reinstatement must also include the following criteria: a letter of endorsement/support from a proposed faculty/staff advisor, a letter of support from the Executive Board of Student Senate, and a cover letter outlining the steps that have been taken to avoid a repeat of the earlier misconduct.
- d. Additional sanctions including but not limited to items cited in Section G.2

Sanctions imposed against student organizations do not also apply to the individual members of the organizations, unless otherwise specified.

G. APPEALS TO THE PRESIDENT OF THE UNIVERSITY

- 1. A student or student organization found to have violated the Code of Conduct by the University Conduct Board may appeal the Board's decision in writing to the University's President within five class days following the University Conduct Board's decision.
- 2. Appeals to the President or his/her designee must be based on one or more of the following:
 - a. Alleged violations of University Conduct Board hearing procedures.

- b. New information pertaining to the case that was not available at the time of the University Conduct Board hearing that may substantially change the decision.
 - c. To determine if the sanction (s) imposed were appropriate for the violation of the Code of Conduct that the student was found to have committed and to determine whether findings are contrary to the evidence presented.
3. The President or his/her designee may:
- a. Support the University Conduct Board's findings and sanctions entirely;
 - b. Modify the sanction;
 - c. Reverse the findings of the University Conduct Board and conclude that no violation of the Student Code of Conduct occurred; or
 - d. Reverse the findings of the University Conduct Board and order a new hearing before the University Conduct Board

H. RETENTION OF RECORDS

1. Students who graduate and receive a degree from the University are considered to be in "good standing" at the time the degree is conferred.
2. All disciplinary records or computer files for cases involving sanctions other than expulsion will be expunged seven years after graduation. If the student does not graduate, the records will be expunged three years after the adjudication.
3. University expulsion is permanent, and records will be maintained by the Office of Student Judicial Affairs for an indefinite period of time.
4. Audio recordings for cases resulting in suspension, residence hall removal or expulsion will be maintained for three years after graduation.

I. AMENDMENTS AND REVISIONS

1. Any question of interpretation or application of the Code of Conduct shall be referred to the Vice President for Student Affairs for final determination, P.O. Box 1002, Millersville, PA 17551-0302.

2. The Code of Conduct is reviewed annually and amendments are made under the direction of the Judicial Affairs Director. Amendments to the Student Code of Conduct Policy are subject to presidential approval and formal action by the Council of Trustees.
3. Revised printed copies of the Code of Conduct are available each year to all incoming students at the Orientation program. An electronic version of the updated Code of Conduct is also available for all students each year via the Internet at <http://www.millersville.edu/judicialaffairs/>
4. Information regarding Judicial Advocates and Administrative Appeal Hearing Forms may be obtained via the Internet at www.millersville.edu/judicialaffairs/.

Approved by the Millersville University Council of Trustees, June 16, 2010

Effective date: July 1, 2010

Current Date: July 1, 2010

Millersville University is an Equal Opportunity/Affirmative Action institution. Coordinators: Services for Students with Disabilities—Dr. Sherlynn Bessick, Director, Office of Learning Services, Lyle Hall, 717-872-3178; Title VI and Title IX— Mr. Hiram Martinez, Interim Assistant to the President for Social Equity and Chief Diversity Officer, Delaware House, 717-872-3787; ADA Coordinator—Mr. Louis DeSol, Associate Vice President for Human Resources, Dilworth Building, 717-872-3017.

A Member of the Pennsylvania State System of Higher Education.

Millersville University
SEIZE THE OPPORTUNITY

Effective: August 29, 2011

**SOCIAL EQUITY & DIVERSITY POLICY
PREVENTING SEXUAL HARASSMENT
AND SEX DISCRIMINATION**

Approved May 3, 2011 – President’s Cabinet
Revised December 6, 2010 – University Legal Counsel
Approved August 26, 2003

This policy statement describes the University's position regarding sexual harassment and sex discrimination and outlines the procedures to be followed when reporting claims of sexual harassment or sex discrimination.

- 1. PURPOSE.** Millersville University is committed to assuring that its educational and employment environment is free from unlawful discrimination and harassment based upon an individual's sex.

Sexual harassment, in any form, is considered unacceptable behavior and counterproductive to the mission of an educational institution in which students, faculty, and staff form bonds based on intellectual trust and dependence. The University regards sexual harassment behavior, whether verbal, non-verbal, written or physical, as a violation of the standards of conduct required of all persons associated with the institution. Accordingly, those inflicting such behavior on others are subject to the full range of internal institutional disciplinary actions up to, and including, separation from the University.

Likewise, acts of retaliation will not be tolerated and are subject to the same range of disciplinary actions. The University regards any retaliatory behavior as unacceptable and is committed to protecting the rights of any student and/or employee who reports any allegations of sexual harassment against any retaliation. Retaliation will be considered a separate offense.

- 2. DEFINITIONS.**

a. Sex Discrimination: Conduct that denies or limits an individual's ability to benefit from or fully participate in educational programs or activities or employment opportunities because of an individual's sex.

Examples of the types of discrimination that are covered under Title IX include, but are not limited to, disparate treatment, failure to provide equal opportunity in educational programs and co-curricular programs including athletics, discrimination based on pregnancy, and employment discrimination.

b. Sexual Harassment: The Equal Employment Opportunity Commission, the federal agency responsible for enforcing Title VII of the Civil Rights Act, defines sexual harassment as: "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individual.
3. Such conduct has the effect of interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.
4. Behavior will be considered "unwelcome" if the individual did not solicit or invite it and particularly if s/he indicates that s/he finds the conduct undesirable or offensive. Acquiescence or failure to complain does not mean that the conduct is welcome. However, if a student or employee actively participates in sexual banter or discussions without giving an indication that s/he does not like it, it will probably not meet the definition of "unwelcome." Not every act that might be offensive to an individual or a group necessarily will be considered as harassment and/or a violation of the University's standard of conduct. In determining whether an act constitutes harassment, the totality of the circumstances that pertain to any given incident in its context must be carefully reviewed and due consideration must be given to the protection of individual rights, freedom of speech, academic freedom and advocacy.
5. In Davis v. Monroe County Board of Education, 526 U.S. 629 (1999), the U.S. Supreme Court ruled that in order to constitute sex discrimination in violation of Title IX of the Education Amendments of 1972, the harassment must be "so severe, pervasive and objectively offensive that it can be said to deprive the victim's access to the educational opportunities or benefits provided by the school."

3. **RESPONSIBILITIES.** The University is responsible for educating all of its students, faculty, and staff regarding what constitutes sexual harassment and sex discrimination and what steps will be taken to resolve complaints.

Each dean, director, department chairperson, and/or administrative officer is responsible within his/her respective area for the implementation, dissemination, and explanation of this policy. Assistance in accomplishing these tasks may be obtained by contacting the Title IX Coordinator/Assistant to the President for Social Equity & Diversity (Delaware House, 872-3787 or 872-3788) or the Associate Vice President for Human Resources (Dilworth Administration Building, 872-3017). It is the obligation of each student, faculty, and staff member to adhere to this policy as well as visitors, contractors or vendors who come to the campus.

4. **REPORTING AND RESPONDING.** All members of the University community are encouraged to report if they observe or encounter conduct that may be subject to the University's Policy on Preventing Sexual Harassment and Sex Discrimination. Reports of sexual harassment or sex discrimination may be brought to the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources or to any manager, supervisor or other designated employee listed in the University Resources section (Section 7) of this policy. If the person to whom harassment or discrimination normally would be reported is the individual accused of harassment or discrimination, reports should be made to another manager, supervisor, or designated resource person. Reports of discrimination or harassment should be brought as soon as possible after the alleged conduct occurs or within 180 days.

5. **PROCEDURES.**

a. Informal Mechanisms for Mediation and Resolution. Informal review and consultative processes are a highly desirable means of resolving problems. The University believes that a strong, informal system for receiving and handling most complaints will encourage resolution. Any person may contact the Title IX Coordinator/Assistant to the President for Social Equity & Diversity and/or the Associate Vice President for Human Resources for informal discussion, advice, and assistance. All discussions held under this informal procedure shall have the goal of resolving the matter without the necessity of entering into the formal complaint procedure. These contacts will be handled in a confidential manner and all allegations will be promptly addressed. An advisor may assist the individual throughout the resolution process and may accompany the individual involved in such informal discussions to the Office of Social Equity & Diversity. Any written records associated with the resolution of a problem during these informal proceedings will be kept in the office of the

Title IX Coordinator/Assistant to the President for Social Equity & Diversity. The Title IX Coordinator/Assistant to the President for Social Equity & Diversity will attempt to complete the informal review and consultative process within thirty (30) days of receiving the complaint. If more time is needed the Title IX Coordinator/Assistant to the President for Social Equity & Diversity will so advise the Complainant.

If any office or person other than the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources receives an informal complaint, this resource person must notify the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources. Absent a formal request, no other person other than those specifically designated may conduct any investigation into the complaint. To the extent possible, the complaint shall remain confidential.

b. Formal Mechanisms for Resolution. When informal resolution is not chosen or is unsatisfactory, complainants are to use the following formal mechanisms. Note that an advisor may assist an individual throughout the formal resolution process and may accompany an individual involved in such formal discussions to the Office of Social Equity & Diversity.

- (1) Harassment or Discrimination by a Faculty Member.** Formal complaints against a faculty member, graduate assistant, or any other person assisting with the instructional program brought by a student, staff member, or another faculty member should be brought to the attention of the appropriate dean or vice president who shall directly contact the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources. Reports also may be directly made to the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources.
- (2) Harassment or Discrimination by a Staff Member.** Formal complaints against a staff member brought by a student, faculty member, or another staff member should be brought to the Director of the staff member or the appropriate vice president, who will directly contact the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources.
- (3) Harassment or Discrimination by Students.** Formal complaints against a student brought by a staff member, a faculty member, or another student, should be brought to the

Assistant Vice President for Student Affairs, the Vice President for Student Affairs or directly to the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources. The procedures for handling such matters involving students and/or student organizations are detailed in the Student Code of Conduct found in the Millersville University Student Handbook.

- (4) Harassment or Discrimination by Outside Vendors.** Complaints of harassment by outside vendors and/or subcontractors should be reported to the Vice President for Finance and Administration, the Director of Facilities Management, or the Associate Vice President for Human Resources who shall directly report such incidences to the Title IX Coordinator/Assistant to the President for Social Equity & Diversity. Complaints can also be made directly to the Title IX Coordinator/Assistant to the President for Social Equity & Diversity.
- (5) Harassment or Discrimination by Visitors.** Complaints against visitors brought by a staff member, a faculty member, or a student shall be filed with the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the appropriate Vice President.
- (6)** A report as to the factual finding of an investigation will be forwarded to the appropriate Vice President. The complainant and the respondent will meet with the investigators to review the findings. If there is a finding of sexual harassment or discrimination, the University will take prompt and effective action to prevent the recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.
- (7)** Any written records associated with a formal investigation will be maintained in the Office of Social Equity & Diversity.

If any office or person other than the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources receives a formal complaint, this resource person shall notify the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources. No other person other than those specifically designated may conduct any investigation. To the extent possible, the complaint shall remain confidential. All investigations will be conducted promptly in an impartial

and reliable manner. The Offices of Social Equity & Diversity and Human Resources will attempt to complete their investigation and issue findings within sixty (60) days of the initiation of the formal complaint if possible. All parties shall have rights to present testimony of witnesses and other evidence relevant to the complaint.

6. **APPEALS.** If the complainant finds the resolution or administrative action unsatisfactory, he or she may file an appeal with the University President within 15 days of being advised of the outcome of the investigation.
7. **UNIVERSITY RESOURCES.** The following University resources are available to all members of the university community who seek information about University policies on sexual harassment and sex discrimination, standards of behavior, informal and formal mechanisms for resolving complaints, and resources for complainants and respondents.

These resources for informational purposes include, but are not limited to, the following:

OFFICE	LOCATION	PHONE
President	Biemesderfer Exec. Center	872-3591
Title IX Coordinator/ Assistant to the President for Social Equity & Diversity	Delaware House	872-3787
Associate Vice President for Human Resources	Dilworth Adm. Building	872-3017
Provost and Vice President for Academic Affairs	Biemesderfer Exec. Center	872-3596
Vice President for Finance and Administration	Dilworth Adm. Building	872- 3043
Vice President for Student Affairs	Student Memorial Center	872-3594
Vice President for Information Resources	Boyer Computer Center	872-3971
Vice President for University Advancement	Duncan Alumni House	872-3775

Dean, Humanities and Social Sciences	McComsey Hall	872-3553
Dean, Education	Stayer Education Center	872-3379
Dean, Science and Mathematics	Caputo Hall	872- 3407
Director, Women's Center	Montour House	871-2238
Director of Housing & Residential Programs	Harbold Hall	871-3162

Additional Resources – The University encourages the utilization of this policy as a means of expeditiously resolving issues addressed within this policy. Other external resources also include:

State Employees Assistance Program	800-692-7459
Pennsylvania Human Relations Commission	717-787-4410
Equal Employment Opportunity Commission	800-669-4000
Office for Civil Rights	215-656-8541

8. GENERAL INFORMATION.

a. Receiving Complaints. Any person receiving a complaint from any member of the University community must immediately forward a report of the matter to the office of the Title IX Coordinator/Assistant to the President for Social Equity & Diversity or the Associate Vice President for Human Resources. Such reports should contain the following information:

- (1) Names of the people involved.
- (2) Description of the complaint.
- (3) School or administrative unit(s) in which the complainant and respondent works or resides.
- (4) Status of complaint.

All the information in such a report must be kept confidential.

b. Annual Summary of Incident Reports. The Title IX Coordinator/Assistant to the President for Social Equity & Diversity shall submit an annual summary report of the number of complaints and the number of allegations resulting in informal or formal fact-finding to the President.

c. Sexual harassment and sex discrimination are serious matters, which can have far-reaching effects on the careers and lives of individuals. False or malicious accusations can have similar effects and to that degree can also be the subject of disciplinary action.

d. A charge of sexual harassment or sex discrimination is not to be taken lightly by a complainant, a respondent, or any other member of the University community.

e. Any member of the University community who attempts to interfere with, restrain, coerce, discriminate against, or harass (overtly or covertly) any individual responsibly pursuing a complaint of sexual harassment or sex discrimination can be subject to appropriate disciplinary action.

- 9. EDUCATION AND PREVENTION.** The prevention of sexual harassment and sex discrimination and the establishment of effective procedures with due concern for all parties requires a comprehensive educational plan. The University provides information concerning; **a)** definitions of harassment and discrimination; **b)** examples of incidents of harassment and discrimination; **c)** sources of support and information for victims and respondents to the charge of harassment and discrimination; **d)** mediation and resolution resources. Faculty, staff, administrators, and students must share some responsibility for creating and maintaining an environment free from sexual harassment and sex discrimination, therefore, the University provides an online sexual harassment prevention tutorial which can be accessed by visiting the Office of Social Equity & Diversity webpage www.millersville.edu/~socialeq. Deans, Directors, Department Chairs, and Administrative heads are required to discuss this policy and issues of harassment during meetings of faculty and staff.

An overall educational program for students dealing with issues of peer sexual harassment and providing information, definition, support, identification of resources, and exploration of behavioral alternatives is facilitated at Student Orientation and through Women's and Wellness programming.

- 10. EXIT INTERVIEWS.** The University will periodically survey departing students, faculty, and staff to measure the existence and frequency of reports of sexual harassment and sex discrimination. If it is discovered that possible sexual harassment or sex discrimination has occurred, the Title IX Coordinator/Assistant to the President for Social Equity & Diversity and Associate Vice President for Human Resources will follow up with exit interviews. Based on the data yielded by these surveys and the annual reports of the Office of Social Equity & Diversity, the University administration and the Commission on the Status of Women will determine,

in consultation with the President's Executive Cabinet, whether there is need for further steps to be taken on the issue of sexual harassment and sex discrimination.

11. **IMPLEMENTATION.** The Office of the President and the Vice Presidents of the University will be responsible for the implementation of this policy.
12. **CONSENSUAL RELATIONSHIPS.** Because the relationship between a teacher and student is central to the academic mission of the University, it is essential to establish the expectation that the standard of conduct in that relationship goes beyond the proscription against sexual harassment as defined in the University policy. A non-academic or personal relationship may interfere with the student/teacher relationship, and may violate standards of conduct expected by the University. Non-academic or personal ties should not be allowed to interfere with the academic integrity of the student/teacher relationship.

The University deems sexual relationships between a faculty member and a current student of that faculty member as inappropriate and unethical. This category includes relations between a graduate student and an undergraduate when the graduate student has some supervisory academic responsibility for the undergraduate. In addition, it includes relations between a student and an administrator, coach, advisor, program director, counselor, or residential staff member who has supervisory responsibility for that student.

It is the responsibility of the Provost, Deans, Department Chairpersons, Vice Presidents, and other Administrative personnel to respond to allegations of inappropriate and unethical behavior brought to their attention.

13. **ACKNOWLEDGMENTS.** This document was developed by the Commission on the Status of Women, the Office of Social Equity & Diversity, and the Office of Human Resources.

Millersville University wishes to acknowledge contributions from the University of Pennsylvania and University of California at San Francisco Sexual Harassment Policies.

Millersville University is committed to ensuring equal opportunity to all persons, regardless of race, color, religion, national origin, ancestry, sex, or handicapped status. This policy extends to employment within and admission to the University and is in compliance with all federal laws, including Title IX of the Educational Amendments of 1972. For further information, contact the Title IX Coordinator/Assistant to the President for Social Equity & Diversity.