

Effective: August 26, 2003

**Administrative Policy
SEXUAL MISCONDUCT**

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This policy statement describes the University’s position regarding sexual misconduct as well as sex- and gender- based discrimination involving students and outlines the procedures to be followed when reporting complaints of sexual misconduct. Following these procedures we will work to assure that a prompt, adequate, reliable and impartial investigation is undertaken by the University. The goal of this policy is to prevent sex- and gender- based discrimination and sexual misconduct and effectively remedy the discriminatory effect of sexual misconduct when it occurs.

POLICY AND PURPOSE

Title IX Notice of Nondiscrimination

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

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

Sexual misconduct, as defined below, violates Title IX. The University has designated the following person to assure compliance with Title IX requirements:

Millersville University Title IX Coordinator

Elizabeth Swantek

Phone No.: 717-871-4100 Email: Elizabeth.Swantek@millersville.edu

Elizabeth Swantek is located in the Student Memorial Center, Room 107B.

Individuals who wish to report incidents of sexual misconduct in University programs or activities may contact the Title IX Coordinator. In the event that there is a conflict of interest with the Title IX Coordinator, reports or complaints of sexual misconduct may be made with the deputy Title IX Coordinators.

Sexual misconduct complaints, which only involve students, will be processed by the Office of Student Conduct and Community Standards. Sexual misconduct complaints involving employees will be processed by the Office of Human Resources.

Lori B. Austin is a Deputy Title IX Coordinator and can be reached in person at the Witmer Building, by telephone at 717-871-5841 or by email at lori.austin@millersville.edu. Ms. Austin's role is to work with complaints involving students. Lori serves as a Hearing Chairperson and Sanctioning Administrator. This deputy coordinator handles student complaints once they reach the Office of Student Conduct and Community Standards.

Scott M. Helfrich, D.Ed. is a Deputy Title IX Coordinator and can be reached in person at the Lombardo Welcome Center, by telephone at 717-871-5836 or by email at scott.helfrich@millersville.edu. Dr. Helfrich's role is to work with complaints involving on-campus students. This deputy coordinator handles response and intake of on-campus student complaints.

Melissa Wardwell is a Deputy Title IX Coordinator and can be reached in person at the Huntingdon House, by telephone at 717-871-7655 or by email at melissa.wardwell@millersville.edu. Ms. Wardwell's role is to work with complaints involving experiential learning and career management from investigation through outcomes. This deputy coordinator handles student complaints once they reach the Office of Experiential Learning and Career Management.

Please be advised that the roles of the listed Deputy Title IX Coordinators, *i.e.*, intake of complaints, investigation, and adjudication, may be reassigned depending on the matter that is presented, workload, scheduling conflicts, prior involvement with a particular student, etc. Staff in the Office of Student Conduct and Community Standards are cross-trained so as to be competent in handling these respective duties.

Complaints of sex- and gender- based discrimination and/or sexual misconduct may be filed through completion of the online reporting form found at: <http://www.millersville.edu/studentconduct>

The Title IX Coordinator coordinates and oversees prompt, effective and impartial responses to Title IX and related sexual misconduct complaints on both an individual and systematic basis, including the initiation of investigations and assisting University officials with the implementation of interim measures and remedies. The Title IX Coordinator is responsible for monitoring investigations and outcomes of sexual misconduct complaints as assigned to Deputy Title IX Coordinators or other University staff. The Title IX Coordinator will work with the Office of Student Conduct and Community Standards staff, members of the Student Conduct and Community Standards Title IX Panel and Human Resources to assure compliance with Title IX requirements. In addition, the Title IX Coordinator will serve as a liaison with the University's Police Department to assure coordination of sexual assault and misconduct cases.

The Deputy Title IX Coordinators will assist the Title IX Coordinator in assuring that the University provides adequate, reliable and impartial investigations of sexual misconduct complaints. This will include undertaking investigations of sexual misconduct consistent with: (1) this policy and applicable collective bargaining agreements when an employee is the respondent; and (2) the Student Code of Conduct for complaints involving students as respondents. Additional duties of Deputy Title IX Coordinators include the training of Student Conduct and Community Standards Title IX Panel members about Title IX procedural due process issues.

PURPOSE

The purpose of this Sexual Misconduct Policy is to:

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

Complaints of sexual assault, sexual violence, sexual harassment, relationship violence as defined later in the policy, and other sex- and gender- based discrimination or harassment are processed consistent with this policy and the [Student Code of Conduct](#).

The protections afforded under Title IX apply regardless of a person's gender identity or sexual orientation.

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

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

SCOPE

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

Any individual may contact the Title IX Coordinator directly for informal discussion, advice and assistance regarding matters of sexual misconduct. If a complainant of sexual misconduct involves a student and a member of the faculty or University staff the investigation will be conducted by the Executive Director of Human Resources or an assigned designee. The Title IX Coordinator will be advised of such complaints and will be routinely apprised of the status of any investigation. The Title IX Coordinator may provide guidance on all issues relevant to compliance with Title IX.

Members of the Millersville University Community are expected to adhere to University policies, as well as local, state and federal laws. Accordingly, this policy applies to all campus constituents, including students, faculty, staff, volunteers, guests and vendors. This policy will also be applicable to third parties who participate in University-sponsored activities, such as students from another college or university, off-campus personnel involved in an internship or coop program, or a host or personnel at a study abroad program. Any complaint of sexual misconduct that is received, regardless of where the conduct occurred, will be assessed to determine if the act happened in the context of an educational program or activity or potentially has an adverse impact on the campus community. Sexual misconduct that arises within an educational program or activity or has an adverse impact on the campus community may be addressed by this policy, the Student Code of Conduct, or any other relevant University policy.

DEFINITIONS

Sexual Misconduct includes, but is not limited to, the following prohibited behaviors:

Sexual Assault	Relationship Violence	Stalking
Sexual Exploitation	Dating Violence	
Sexual Harassment	Domestic Violence	

For further information on what constitutes sexual misconduct please refer to Section B of the [Student Code of Conduct](#).

Sexual Assault is consistent with Sexual Offenses Section of the Pennsylvania Crimes Code, 18 Pa.C.S. Chapter 31 and is defined as a person engaging in sexual intercourse without the person's consent.

Sexual Exploitation and/or Exposure is when an individual takes non-consensual, unjust or abusive sexual advantage of another for the individual's own pleasure, advantage or benefit, or to pleasure, benefit or advantage anyone other than the one being exploited. Sexual exposure occurs when an individual engages in lewd exposure of the body done with the intent to arouse or satisfy the sexual desire of any person.

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

- Non-consensual video, photographing, or audio-taping of sexual activity;
- Non-consensual distribution of a video, photograph, or sound recording of sexual activity;
- Non-consensual photographing of a nude person; or

Non-consensual distribution of a photograph of a nude person

Sexual Harassment consists of interaction between individuals that is characterized by unwelcome sexual advances, coercion, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, living conditions, educational evaluation, and/or educational activity; (2) submission to or rejection of such conduct by an individual is used as the basis for tangible employment or educational decisions affecting such individual; or (3) such conduct has the effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or educational environment. Sexual Harassment as described in elements (1) and (2) are known as 'quid pro quo' which typically arises when a person has authority over another. Sexual Harassment as referenced in element (3), is also referred to a hostile work or educational environment harassment.

Relationship Violence refers to both dating violence and domestic violence. All acts of relationship violence are forms of sexual misconduct under this policy.

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and the existence of such relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; (3) the frequency of interaction between the persons involved in the relationship.

Dating Violence can include:

- Physical assault;
- Verbal abuse;
- Controlling behavior;
- Sexual abuse; or
- Psychological abuse.

Domestic Violence: Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is living with or has lived with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domestic Violence can include:

- Physical assault;
- Verbal abuse;
- Controlling behavior;
- Sexual abuse; or
- Psychological abuse.

Stalking is engaging in a pattern of conduct directed at a specific person that would cause a reasonable person to: (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

Stalking is, but not limited to:

- Unwanted telephone calls;
- Unwanted letters, e-mails, social media messages (e.g. Twitter, Facebook,) or other forms of communication/messaging;
- Pursuing or following a person without the person's consent;
- Unwanted appearances at a person's place of residence, activity, or work;
- Surveillance or other types of observation; or
- Use of electronic devices or software to track or obtain private information.

Complainant is a person who experiences the alleged sexual misconduct.

Consent is clear, knowing, voluntary and expressed prior to engaging in and during an act. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Consent can be withdrawn at any time.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- In order to give effective consent, one must be of legal age.
- In order to give effective consent, one must not be incapacitated.

Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why or how" of their sexual interaction). This definition also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the use of alcohol or drugs. Sexual activity with a person they know or reasonably should know to be mentally or physically incapacitated constitutes sexual misconduct under this code. In evaluating whether a person should know if another individual is incapacitated is whether a reasonable person in the same position knew or should have known of the complainant's incapacitation.

Investigation is a prompt, effective, reliable, impartial and systematic collection of all reasonably ascertainable and relevant facts in a fair and objective manner. Assigned investigators conduct an investigation, including investigatory interviews of witnesses, the employee or student making the complaint and the employee or student respondent. The Investigative Team prepares an investigative fact-finding report at the conclusion of the investigation.

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

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

Non-consensual sexual intercourse is having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with a body part or an object, or oral penetration by mouth-to-genital contact.

Reporting Party is an individual, i.e., complainant, student, employee, administrator, applicant, person, or visitor, who makes an allegation that sexual misconduct has occurred.

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

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

Sexual Misconduct Response Team convenes when a report of sexual misconduct is received and requires a coordinated response. The report will be referred to a Sexual Misconduct Response Team (“SMRT”) to ensure consistent application of this Policy and Procedures to all individuals and allow the University to respond promptly and equitably to eliminate harassment, prevent its recurrence and remedy its effects.

Members of the Sexual Misconduct Response Team may include:

- The Title IX Coordinator (facilitator)
- Deputy Title IX Coordinator
- A member of the University Police Department
- Vice President for Student Affairs and Enrollment Management (or other University administrators deemed necessary depending on the circumstances).

GENERAL OBLIGATION TO REPORT

Confidentiality

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

- The number of persons with knowledge of the complaint shall be kept to a minimum;
- Only persons with a need to know shall be notified of the complaint; The Director of Student Conduct and Community Standards or the Executive Director of Human Resources shall exercise discretion in the setting of dates and locations of interviews, and the placing of, and responding to, telephone calls and written correspondence related to the complaint; and
- An investigator(s) will interview the complainant, the respondent and individuals named as witnesses by the complainant and respondent to the extent possible.

Reporting Duties and Responsibilities

Any individual (e.g., person, visitor, student, faculty, staff, administrator, or applicant) who is made aware of an incident or receives a report of sexual misconduct should immediately refer the person to the Title IX Coordinator or any of the Deputy Title IX Coordinators listed in page one of this document. An online reporting form can be found at: www.millersville.edu/studentconduct. All initial reports of sexual misconduct will be reviewed by the Title IX Coordinator or the Executive Director of Human Resources. The Title IX Coordinator is available to assist a complainant in the filing of a sexual misconduct complaint with the Executive Director of Human Resources, or the Director of Student Conduct and Community Standards depending on the parties involved. In addition the Title IX Coordinator will work with the Executive Director of Human Resources and other relevant University personnel in determining whether appropriate measures need to be provided during the investigation of a Title IX complaint.

Supervisor/Manager Obligation to Report

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

Any individual receiving a report of sexual misconduct is required to contact the Title IX Coordinator, Executive Director of Human Resources, supervisor or other designated employee listed in the University Resources section of this policy. If the individual is a supervisor or other designated resource person, that individual shall in turn ensure prompt notification to the Title IX Coordinator. If the individual to whom the sexual misconduct normally would be reported is the individual accused of the sexual misconduct, complaints should be referred to the Title IX Coordinator. Any complaint involving the Title IX Coordinator should be referred to the Vice President of Student Affairs and Enrollment Management.

If a person reports an allegation of sexual misconduct to the Title IX Coordinator or other University official, but indicates that the person does not want the Title IX Coordinator to initiate an investigation of the matter, the person should be advised that the University may not be able to honor such a request and keep the matter confidential. The University's obligations under Title IX relate to the entire campus community. As such, the University in certain circumstances may need to initiate an investigation of a matter in order to protect the health, safety and welfare of the campus community.

Based on the circumstance, the University may be obligated to investigate an allegation of sexual misconduct when it is reported. The Title IX Coordinator and the appropriate University administrators will evaluate whether:

- The respondent is likely to commit additional acts of sexual or other violence;
- There have been other sexual misconduct complaints about the same respondent;
- The respondent has a history of arrests or incidents from a prior university indicating a history of violence;
- The respondent threatened further sexual misconduct or other violence against the complainant or others;
- Multiple respondents committed the sexual misconduct;
- The sexual misconduct involved the use of a weapon;
- The complainant is a minor;
- The respondent is a Millersville University employee;
- The University possesses other means to investigate the sexual misconduct (e.g., security cameras or physical evidence); or
- The complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular person or group.

In such circumstances the University reserves the right to take appropriate action even if the complainant is reluctant to proceed.

Resources to discuss sexual misconduct issues on a confidential basis are available to potential complainants. Some of these resources are listed in the Campus and Community Resource section of this policy, with a few listed below. After consulting with a confidential resource, a potential complainant may decide to not file a complaint under this policy at the person's discretion. Seeking advice from a confidential resource does not constitute reporting an incident of misconduct.

On Campus Confidential Resources

- Center for Counseling and Human Development (Lyle Hall, 3rd floor). 717-871-7821
- Health Services (Witmer Building). 717-871-5250

Community Confidential Resources

- Domestic Violence Services of Lancaster County. 717-299-1249
- YWCA Sexual Assault Prevention and Counseling Center. 717-392-7273

GENERAL COMPLAINT PROVISIONS

Assistance for Complainants and Respondents

It is the University's policy to recognize and respect the rights of any individual against whom a complaint has been filed. All students and employees maintain the right to procedural due process which includes notice of the charges and the opportunity to be heard. If applicable, employees accused of sexual misconduct shall have the right to be assisted by their collective bargaining unit representative at any meeting held to discuss the complaint. In the case of students, both the complainant and a respondent have the right to be assisted by an advocate.

False Accusations

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

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

Retaliation

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

No person shall physically harm or exhibit threatening, intimidating, or harassing conduct toward any party or witness involved in a sexual conduct case, or cause damage to the person's property, with the intent of influencing the outcome of the case or for retaliatory reasons.

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

INFORMAL AND FORMAL COMPLAINT PROCESS

Pre-Complaint Review

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

Informal Resolution Process

Informal review and consultative processes can be highly desirable means for resolving discrimination or harassment complaints. The purpose of informal complaint resolution is to encourage the reporting of sexual harassment and discrimination complaints and to facilitate satisfactory resolution of the complaint. A complainant may choose to end the informal process and choose to proceed with the formal complaint resolution process anytime during the informal review process.

In some cases, a formal investigation may be appropriate and must be pursued to assure compliance with Title IX requirements and to afford procedural due process to all parties involved. The determination as to whether to initiate the formal process will be

made by the Director of Student Conduct and Community Standards or the Executive Director of Human Resources.

If the complainant decides to proceed with the informal process, the respondent may be told of the identity of the complainant at this stage.

Formal Resolution Process

The most efficient way to report sexual misconduct and initiate the university's investigation processes is by filling out the form located at the following link: www.millersville.edu/studentconduct.

A student may also choose to contact the Title IX Coordinator or Deputy Title IX Coordinator at (717) 871-4100.

The formal process of investigating and adjudicating a sexual misconduct complaint will proceed in a timely manner consistent with the complexity and the severity of the matter. Complaints are typically investigated and scheduled for a hearing within sixty (60) calendar days of the initial decision to move forward with the formal resolution process unless extenuating circumstances requires an extension of time. Extenuating circumstances, which are defined as events that will compromise the process unless an extension is given may vary depending on the complexity of the investigation and the severity and extent of the alleged conduct. Any departure from timeframes that are designated in this Policy, will be communicated to both parties through periodic updates. Upon completion of the investigation a hearing will be scheduled within twenty (20) business days. A decision is typically issued within five (5) business days.

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

FILING A COMPLAINT THAT INVOLVES A STUDENT ON STUDENT INCIDENT

Administrative Fact Finding Involving Student on Student Incidents

Upon the report of an alleged sexual misconduct violence, the Sexual Misconduct Response Team will meet to make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. In the course of this assessment, the University will consider the interest of the complainant and the complainant's expressed preference for manner of resolution: 1) Administrative Fact Finding; 2) Voluntary Resolution or 3) Not moving forward. Where possible and supported by an assessment of the facts and circumstances, the University will seek action consistent with the complainant's request. If the complainant request to move forward with the formal resolution process, or by virtue of the nature of the complaint, then the administrative fact finding process will occur. The Administrative Fact Finding is a process which will include interviews of the complainant, the respondent, and any witnesses. Included in the Fact Finding Report will be a summary of the allegation, a list of university policies that may have been violated and a synthesis of the facts outlining what questions remain and elements that are in dispute or in agreement. Respondents

and Complainants will be informed of the outcome of the Administrative Fact Finding process. If policy allegations have been substantiated the Administrative Fact Finding Report will be submitted to the Director of Student Conduct and Community Standards and the Student Conduct and Community Standards Title IX Panel for an Administrative Hearing.

Administrative Hearing Procedures Involving Student on Student Incidents

It is important to note that our campus disciplinary process is not a criminal trial. It is a University proceeding designed to hold students responsible for their role in violations of the Student Code of Conduct.

Like in all other Administrative Hearings, the University will apply a “preponderance of the evidence” standard in determining whether a violation of the student code of conduct occurred in cases of alleged sexual misconduct. A preponderance of the evidence standard simply means that it is “more likely than not” that a violation occurred. This is in contrast to “beyond a reasonable doubt,” which is the higher standard of proof required for a conviction in a criminal trial. In addition, the University has chosen to utilize an investigation model for resolving sexual misconduct complaints. The investigation model is non-adversarial and minimizes re-victimization by discouraging interaction between the complainant and respondent. Investigations are conducted with all involved parties separately. Pertinent notes are synthesized and compiled into a Fact Finding Report. If a Code of Conduct violation is prevalent in the Administrative Fact Finding report, the respondent will be afforded an administrative hearing by the Student Conduct and Community Standards Title IX Panel.

Appeals in Title IX Sexual Misconduct Cases Involving Student on Student Incidents

A student may [appeal](#) the Title IX Hearing Panel decision in Title IX sexual misconduct cases in writing to the Vice President for Student Affairs and Enrollment Management or designee within five (5) business days following the decision. The Vice President for Student Affairs and Enrollment Management or a designee will review the appeal and render a decision.

[Appeals](#) to the Vice President for Student Affairs and Enrollment Management or their designee must be based on one or more of the following:

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

The Vice President for Student Affairs and Enrollment Management or designee will review the existing record and may:

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

The decision rendered by the Vice President for Student Affairs and Enrollment Management or designee is final.

For further information on the University's investigative process for student on student incidents and what constitutes sexual misconduct, please refer to Section E of the Student Code of Conduct: www.millersville.edu/studentconduct

FILING A COMPLAINT THAT INVOLVES UNIVERSITY EMPLOYEES

To initiate a complaint, the complainant may:

1. Contact the Executive Director of Human Resources to discuss the complaint or may
2. Submit a completed and signed statement to the Executive Director of Human Resources. The statement should be able to document the timeframe of the alleged offense(s) with a detailed description related to the incident (s), name(s) of accused (respondent), witnesses and any pertinent documentation about the complaint.

Notification Involving University Employees

Employee respondents will be notified about the receipt of a complaint according to their respective Collective Bargaining Agreements (CBA) (Represented Employees), Policy 1983-01 Merit Principles Non-represented Managers), or Policy 1984-14 A: Terms and Conditions of Employment of Senior Policy Executives (Administrators).

Complainants will be notified as appropriate during the investigation process.

Investigation Involving University Employees

Upon notification of an alleged sexual misconduct violation involving a university employee, the Executive Director of Human Resources will lead an Administrative Fact Finding process. This process will include interviews of the complainant, the respondent and any witnesses. Employee investigations will proceed in accordance respective Collective Bargaining Agreements (CBA) (Represented Employees), Policy 1983-01 Merit Principles (Non-represented Managers), or Policy 1984-14 A: Terms and Conditions of Employment of Senior Policy Executives (Administrators). Complainants will receive a notice of outcome once the entire investigation process is concluded.

SUSPENSION OR WITHDRAWAL OF COMPLAINTS

The University may suspend its investigation at any stage if the Director of Student Conduct and Community Standards or the Executive Director of Human Resources receives a written resolution of the complaint agreed to by both the complainant and respondent.

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

Investigative Team will complete the investigation

REPORTING

Anonymous Reporting

Anonymous reports of sex or gender-based discriminations may be submitted by visiting www.millersville.edu/studentconduct.

Confidentiality

Reporting parties have the option to request that the University maintains their confidentiality or that the complaint not be pursued. The University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality, but may need to proceed when necessary.

Amnesty for Complainants and Witnesses

During the process of investigating a report of sexual misconduct, other violations of the Code of Conduct may be found to have been committed. The Millersville community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes complainants or witnesses are hesitant to report to university officials because they fear that they, themselves, may be accused of a policy violation such as underage drinking at the time of the incident. It is in the best interest of the University community that individuals of this community report to university officials and that witnesses come forward to share what they know. To encourage this culture of reporting, the university pursues a policy of offering complainants and witnesses amnesty from minor policy violations related to a sexual misconduct incident.

Report to the Police

Every individual reporting sexual misconduct to the University, also has the option to report to Millersville University Police Department or the local police department; who to report to is contingent upon jurisdiction. It is the reporting party's decision to participate in the University process, a criminal process, both or neither. Law enforcement agencies investigate criminal behavior and do not investigate potential violations of Title IX. These two are separate and distinct processes. However, investigations conducted by the University under the sexual misconduct policy may coincide with law enforcement investigations due to the same conduct. At the request of law enforcement, the University investigation may be delayed temporarily while law enforcement is gathering evidence. The investigator will promptly resume the University investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation.

Filing a Complaint with the Office of Civil Rights

Individuals who believe they were discriminated against on the basis of race, color, national origin, sex, disability, or age can file a complaint with the Office of Civil Rights at the information provided below:

Mail or Facsimile:

Office for Civil Rights

Philadelphia Office

U.S. Department of Education

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323 T
Telephone: (215) 656-8541
Facsimile: (215) 656-8605
Email: OCR.Philadelphia@ed.gov
Online: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

For more information on OCR's grievance procedures, please visit their website at:
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

Student Procedures

Please refer to the [Student Code of Conduct](#) for the specific sexual misconduct hearing proceedings.

CAMPUS AND COMMUNITY RESOURCES

Campus and community resources are available to support students as well as employees impacted by sexual misconduct. Remember, if you are in imminent danger or require an immediate response, call 911.

CAMPUS RESOURCES

Confidential Resources

Center for Counseling and Human Development (Lyle Hall, 3rd floor). 717-871-7821
Health Services (Witmer Building). 717-871-5250
Domestic Violence Services of Lancaster Advocate MUadvocate@dvslanc.org
(Tuesdays in the Montour House from 1-4pm)
YWCA Advocate: धारवेय@ywcalancaster.org
(Mondays in the Montour House from 10am-6pm)

Other Resources

Center for Health Education and Promotion (Montour House). 717-871-4141
Office of Student Conduct and Community Standards (Witmer Building). 717-871-5841
Conduct Advocates available by visiting www.millersville.edu/studentconduct
Title IX Coordinator (Student Memorial Center). 717-871-4100
University Police (Lebanon House) 717-871-4357

COMMUNITY RESOURCES

Employee Assistance Program (SEAP)

800-692-7459 or www.liveandwork.com – Access Code: Pennsylvania

Financial Information

Victims Compensation Assistance Program 800-233-2339

Law Enforcement (Non-Emergency)

Lancaster County District Attorney's Office. 717-299-8100
24/7 Lancaster County Non-Emergency Dispatch 717-664-1180 (All Lancaster County Police Departments)

Legal Assistance

Domestic Violence Legal Clinic. 717-291-5826 (Assistance with Protection from Abuse Orders)
Lancaster County Victim Witness Services. 717-299-8048 (Support and Advocacy to Victims of Crime)

LGBT Center of Central PA 717-920-9534

Medical/Healthcare Resources

Planned Parenthood of Lancaster 717-299-2891

Relationship Violence

Domestic Violence Services of Lancaster County. 717-299-1249

National Teen Dating Abuse Hotline. 1-866-331-9474 or by text "love is" to: 22522

Respondent Resources

Commonwealth Clinical Group. 36 East King Street Lancaster, PA 17602 717-393-3900

Menergy, LLC. 2000 Hamilton Street 3rd Floor Philadelphia, PA 19130 215-596-4137

Sexual Assault

YWCA Sexual Assault Prevention and Counseling Center 717-392-7273

National Sexual Assault Hotline 800-656-4673

Sexual Assault Examination

Lancaster General Hospital. 717-544-7000

Suicide

CONTACT Lancaster Helpline. 717-299-4855

Crisis Intervention of Lancaster County. 717-394-2631

National Suicide Hotline. 800-784-2433

External Enforcement Agencies

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

Equal Employment Opportunity Commission (EEOC) (800) 669-4000

EEOC Philadelphia District Office

801 Market Street, Suite 1300

Philadelphia, PA 19107-

3127

www.eeoc.gov

Office for Civil Rights (OCR), U.S. Department of Education (215) 656-8541

OCR Philadelphia Office, The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107-3323 www2.ed.gov

Pennsylvania Human Relations Commission (PHRC) (717) 787-9780

PHRC Harrisburg Regional Office,

333 Market Street, 8th Floor

PREVENTION AND EDUCATION

The prevention of discrimination, harassment, retaliation and the establishment of effective procedures with due concern for everyone involved requires a comprehensive educational plan. The University provides information concerning; a) definitions of harassment, discrimination, and retaliation; b) examples of incidents of discrimination or harassment; c) sources of support and information for complainants and respondents; and d) mediation and resolution resources. Faculty, staff, administrators and students must share joint responsibility for creating and maintaining an environment free from discrimination and harassment; therefore, the University provides an online harassment prevention tutorial. Vice Presidents, Deans, Directors, Managers/Supervisors and/or Department Chairs are required to discuss these procedures and issues with students, faculty and staff annually.