

SEXUAL VIOLENCE, RELATIONSHIP VIOLENCE, AND STALKING POLICY

Thank you to those who submitted comments and suggestions regarding the proposed revision of the University's Sexual Harassment and Sexual Violence, Relationship Violence and Stalking Policies. After careful consideration of the comments received, the policies that appear in this supplement have been adopted, effective on July 1, 2016. In addition to the resource information contained in the policies, the Penn Violence Prevention (https://provost.upenn.edu/uploads/media_items/pvp-resource-guide.original.pdf), Title IX and Sexual Misconduct Reporting for Faculty (https://provost.upenn.edu/uploads/media_items/sexualviolenceresources.original.pdf) and the Title IX at Penn (<http://www.upenn.edu/affirm-action/titleix.html>) websites provide information and guidance regarding our collective responsibilities for the prevention of sexual harassment and sexual violence. Information regarding making informal and formal complaints is contained in the policies and on the websites referenced above among others. The new policies will be widely publicized at the beginning of the fall semester. The Offices of Affirmative Action and Equal Opportunity Programs, Staff and Labor Relations in the Division of Human Resources and the Vice Provost for Faculty are among those available to respond to questions or provide additional information.

—Amy Gutmann, *President*

—Vincent Price, *Provost*

—Craig R. Carnaroli, *Executive Vice President*

—J. Larry Jameson, *Executive Vice President for the Health System and Dean, Perelman School of Medicine*

I. Introduction

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

II. Definitions

Sexual violence, relationship violence and stalking in any form, including sexual assault and rape, are prohibited by University policy. Important definitions appear below.

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

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

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

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

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

Consent is an affirmative decision to engage in mutually agreed upon sexual activity and is given by clear words or actions. Consent may not be inferred from silence, passivity or lack of resistance alone. Furthermore, consent to one form of sexual activity does not imply consent to other forms of sexual activity and the existence of a current or previous dating, marital or sexual relationship is not sufficient to constitute consent to additional sexual activity. Assent shall not constitute consent if it is given by a person who, because of youth, disability, intoxication or other condition, is unable to lawfully give his or her consent.

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

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

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

In determining whether the alleged conduct violates this policy, consideration will be given to the totality of the circumstances, including the nature of the conduct and the context in which the alleged incident occurred.

III. Resources

A. Confidential Resources for Information, Counseling and Support

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

The information shared with the resources listed below generally will be held in confidence, consistent with the University's obligation to address complaints of sexual violence, unless the person sharing the information gives his or her consent to the disclosure of that information. Confidential resources are not obligated to share identifying information with the Title IX Coordinator when an incident of sexual violence is shared with that resource. However, the commitment to confidentiality does not preclude the sharing of information among University administrators as appropriate to keep members of the University community safe. In

addition, confidential resources may submit non-identifying information about incidents of sexual violence to the Title IX Coordinator or to the Division of Public Safety for purpose of crime statistics reporting under the Clery Act. (For additional information regarding Clery Act reporting, see the Clery Act & Crime Reporting page on the Division of Public Safety website at <https://www.publicsafety.upenn.edu/clery/>)

- African-American Resource Center (<http://www.upenn.edu/aarc/staff.html>) (resource for students, staff or faculty)
- Counseling and Psychological Services (<http://www.vpul.upenn.edu/caps>) (resource for students)
- Employee Assistance Program (<https://www.hr.upenn.edu/myhr/worklife/healthy/eap>) (resource for staff or faculty)
- Lesbian Gay Bisexual Transgender Center (<http://www.vpul.upenn.edu/lgbtc>) (resource for students, staff or faculty)
- Office of the Chaplain (<http://www.upenn.edu/chaplain>) (resource for students, staff, faculty or visitors)
- Office of the Ombudsman (<http://www.upenn.edu/ombudsman>) (resource for students, staff or faculty)
- Office of Sexual Violence Prevention and Education (<https://secure.www.upenn.edu/vpul/pvp>) (resource for students)
- Penn Women's Center (<http://www.vpul.upenn.edu/pwc>) (resource for students, staff or faculty)
- Special Services Department (<https://www.publicsafety.upenn.edu/about/special-services>), Division of Public Safety (resource for students, staff, faculty or visitors)
- Student Health Service (<http://www.vpul.upenn.edu/shs>) (resource for students)

B. Additional Resources for Information, Counseling and Support and Informal Complaint Resolution

There are other resources available to the University community for information, counseling and support. These resources are also available to assist in the resolution of complaints, as are the confidential resources listed above. Please note that these resources are not confidential. Unlike the confidential resources, these resources are obligated to notify the Title IX Coordinator when an incident of sexual violence is shared with that resource person and to provide sufficient information so that the University can take appropriate action. (For a full discussion of reporting obligations, see the Reporting and Monitoring section below.)

- College Houses and Academic Services (<https://www.collegehouses.upenn.edu>) (resource for College House residents)
- Dean's Offices and Department Chairs (resource for students, faculty or staff in their respective Schools and Departments)
- Division of Human Resources (<https://www.hr.upenn.edu/myhr>), Office of Staff and Labor Relations (resource for staff)
- Office of Affirmative Action and Equal Opportunity Programs (<http://www.upenn.edu/affirm-action>) (resource for faculty, students, staff or visitors)
- Office of the Vice Provost for Faculty (<https://provost.upenn.edu/faculty>) (resource for faculty)
- Student Intervention Services (<http://www.vpul.upenn.edu/intervention.php>) (resource for students)

C. Formal Complaint Resolution Resources

A formal complaint against a member of the University's faculty or instructional staff should be initiated by contacting the Office of the

Sexual Violence Investigative Officer. The complaint will be handled consistent with the *Procedures for Resolving Complaints Against Faculty of Sexual Assault, Sexual Violence, Relationship Violence and Stalking*.

A formal complaint against an enrolled University student should be initiated by contacting the Office of the Sexual Violence Investigative Officer. The complaint will be handled consistent with the *Student Disciplinary Procedures for Resolving Complaints of Sexual Assault, Sexual Violence, Relationship Violence and Stalking*.

A formal complaint against a University staff member should be initiated by contacting the Office of Affirmative Action and Equal Opportunity Programs (OAA/EOP). The complaint will be handled consistent with that office's complaint resolution procedures.

IV. Reporting and Monitoring

The University is committed to ensuring that members of the University community who share information regarding incidents of sexual violence get the information, counseling and support that they need and are aware of the process for making a formal complaint. The University is also committed to monitoring reports and complaints of sexual violence so that any patterns or systemic problems revealed by such reports and complaints can be addressed.

Consistent with these commitments, the University has determined that the Title IX Coordinator must be advised when incidents of sexual violence are reported to the Office of the Sexual Violence Investigative Officer, to any of the offices listed above (except those identified as confidential resources), to any member of the faculty or to any University staff member in a leadership or supervisory position or who has significant responsibility for the welfare, guidance or advising of students or staff, including the President, Provost, Vice Presidents, Vice Provosts, Deans, Vice Deans, Associate Deans, Assistant Deans and Academic Advisors, as well as appropriate staff in the following offices: College Houses and Academic Services (CHAS), Division of Public Safety (DPS), Division of the Vice Provost for University Life (VPUL) except those identified as confidential resources, Division of Human Resources (as well as Human Resources staff in the Schools/Centers), Office of Affirmative Action and Equal Opportunity Programs (OAA/EOP), Graduate Student Center (GSC), Division of Recreation and Intercollegiate Athletics (DRIA) and student life and academic services units in the University's Schools and Centers.

When an incident of sexual violence is reported to the Title IX Coordinator, the Title IX Coordinator will take appropriate steps to ensure that the individual who reported the incident has been advised of the resources available to him or her and the process for making a formal complaint. The Title IX Coordinator should be provided with sufficient information to enable the University to identify patterns. Such information includes the name of the person reporting the incident, the date, time and location of the incident, the identities of those involved in the incident and a brief description of the behavior alleged to have occurred, to the extent this information is known to the individual making the report. If there has been a request for confidentiality, this should also be shared with the Title IX Coordinator, who will consider the request. Even if confidentiality cannot be granted, information will be disclosed only to those who, in the judgment of the Title IX Coordinator, have a need to know. Decisions regarding how to proceed following a report of sexual violence to the Title IX Coordinator will be made on a case-by-case basis. A report to the Title IX Coordinator will not necessarily result in a formal complaint to the Sexual Violence Investigative Officer (for complaints against enrolled

students or faculty) or to the Office of Affirmative Action and Equal Opportunity Programs (for complaints against staff).

For those members of the University community who have crime statistics reporting obligations under the Clery Act, notifying the Title IX Coordinator regarding an incident of sexual violence does not replace the obligation to report the matter to the Division of Public Safety. For additional information about Clery Act reporting or to make a report, refer to the Clery Act & Crime Reporting page on the Division of Public Safety website at <https://www.publicsafety.upenn.edu/clery/>

V. Rights of Complainants and Respondents

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

- The option to notify law enforcement;
- The option to have another member of the University community present during interviews that are part of a University-initiated investigation;
- To be notified of counseling and support services available; and
- To be notified of options to change academic, living or work arrangements.

VI. Policy Against Retaliation

University policy expressly prohibits retaliation against faculty, staff or students who in good faith make reports of violations of this policy. In addition, knowingly and intentionally making a false report of a violation of this policy is prohibited. Members of the Penn community who take adverse action against someone who reports a violation of this policy, intimidate, threaten or otherwise engage in retaliation are subject to disciplinary action up to and including termination of their employment or expulsion from the University.

(Source: Almanac, July 1, 2016, Supplement (<http://www.upenn.edu/almanac/between/2016/070116-of-record.html#violence>))