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Responsible Offices: Office of Compliance,
Office of Human Resources,
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Date: August 2017**

POLICY ON SEXUAL MISCONDUCT

Policy Statement

Harrisburg University prohibits all forms of sexual misconduct, including but not limited to, sexual assault, stalking, dating or domestic violence, and sexual harassment. Such conduct violates the community values and principles of our institution and disrupts the living, learning, and working environment for students, faculty, staff and other community members. In furtherance of this policy, Harrisburg University has adopted the following standards of conduct for all members of our community – students, faculty, and staff, as well as University vendors, contractors, visitors, guests, and third parties – with respect to sexual misconduct. These standards apply equally to all regardless of the sex, gender, sexual orientation, gender identity, or gender expression of any of the individuals involved.

Reason for Policy/Purpose

Harrisburg University is committed to fostering an environment in which all members of our campus community are safe, secure, and free from sexual misconduct of any form. Our community expects that all interpersonal relationships and interactions – especially those of an intimate nature – will be grounded upon mutual respect, open communication, and clear consent. When learning of conduct or behavior that may not meet these standards, community members are expected take an active role in upholding this policy and promoting the inherent dignity of all individuals.

Table of Contents

Policy Statement.....	1
Reason for Policy/Purpose.....	1
Who Approved This Policy	3
Who Needs to Know This Policy	3
Jurisdictional Statement.....	3
Website Address for This Policy	3
Contacts	3
Policy	4
I. Consent	4
II. Prohibited Conduct	5
III. Reporting Obligation	8
IV. Retaliation.....	8
V. Amnesty for Sexual Misconduct Complainants and Witnesses	9
VI. Title IX and VAWA Statement.....	9
Procedures⁴	10
1. Seeking Medical Assistance	10
2. Preserving Evidence.....	11
3. Confidential Support, Advocacy & Counseling	12
4. Reporting Sexual Misconduct.....	14
5. Protective Measures	15
6. Investigation and Resolution of Alleged Violations of the Sexual Misconduct Policy.....	16
7. Educational Training, Awareness and Prevention Programs.....	19
Appendices	20
APPENDIX A: Resource of Relevant Terms and Definitions in Pennsylvania.....	21
APPENDIX B: Pamphlet: “You Have Options. We Can Help: Harrisburg University Resource Guide on Sexual Misconduct and Title IX”	23
APPENDIX C: Sexual Misconduct Complaint Resolution Process.....	26
APPENDIX D: Resources Not Subject to Reporting Obligation	27

Who Approved This Policy

Office of the President, Provost, Office of Compliance, and VP of Finance

Who Needs to Know This Policy

All Harrisburg University community members, including students, faculty and staff, as well as University vendors, contractors, visitors, guests, volunteers, interns, and third parties.

Jurisdictional Statement

Harrisburg University may investigate any alleged violations of this policy that occur in the context of a University program or activity or that otherwise affect the University's working or learning environments, regardless of whether that conduct occurred on or off campus. In situations where the alleged sexual misconduct occurred outside of the context of a University program or activity or off-campus and the respondent is not a member of the University community, the University will typically not conduct an investigation but may address the situation and provide appropriate resources to those individuals impacted and, where appropriate, the broader University community.

Website Address for This Policy

<http://harrisburgu.edu/policy/sexual-misconduct-policy.pdf>

Contacts

If you have any questions about this policy, you may contact: Office of Institutional Compliance, Harrisburg University, Room 1429, 326 Market Street, Harrisburg, PA 17101. (717) 901-5123.

Policy

The terms and definitions used here are important components of University policy. The definitions are intended to give meaning to these terms in the context of the Harrisburg University community. Criminal and other applicable state laws may use different definitions. Appendix A provides Pennsylvania criminal law terms and definitions.

I. Consent

Consent represents the cornerstone of respectful and healthy intimate relationships. Harrisburg University strongly encourages its community members to communicate – openly, honestly, and clearly – about their actions, wishes, and intentions when it comes to sexual behavior, and to do so before engaging in intimate conduct. It is always the requirement of the individual initiating sexual contact (or undertaking a new type of sexual activity) to ensure that consent is present before acting and is present during sexual activity.

When determining whether consent was present, the University will consider whether a sober, reasonable person in the same position should have known whether the other party could or could not consent to the sexual activity.

- A. For purposes of this policy, *consent is present when clearly understandable words or actions manifest a knowing, active, voluntary, and present and ongoing agreement to engage in specific sexual or intimate contact.*

Consent must be all of the following:

- *Knowing*: Consent must demonstrate that all individuals understand, are aware of, and agree to the “who” (same partners), “what” (same acts), “where” (same location), “when” (same time), and “how” (the same way and under the same conditions) of the sexual activity. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person.
- *Active*: Consent must take the form of “clearly understandable words or actions” that reveal one’s expectations and agreement to engage in specific sexual activity. This means that silence, passivity, submission, or the lack of verbal or physical resistance (including the lack of a “no”) should not – in and of themselves – be understood as consent. Consent cannot be inferred by an individual’s manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date.
- *Voluntary*: Consent must be freely given and cannot be the result of respondent’s force (violence, physical restraint, or the presence of a weapon), threats (indications of intent to harm, whether direct or indirect), intimidation (extortion, menacing behavior, bullying), coercion (severe or persistent pressure causing fear of significant consequences from respondent if one does not engage in sexual activity) or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity).
- *Present and ongoing*: Consent must exist at the time of the sexual activity. Consent to previous sexual activity does not imply consent to later sexual acts; similarly, consent to one type of sexual activity does not imply consent to other sexual acts. Consent may also be

withdrawn at any time – provided the person withdrawing consent makes that known in clearly understandable words or actions.

B. Consent is not present when an individual does not have the capacity to give consent, voluntarily or involuntarily, due to age (In **Pennsylvania**, children less than 13 years of age cannot grant **consent** to **sexual** activity, people aged 16 and older can legally **consent** to **sexual** activity with anyone they choose, as long as the other person does not have authority over them as defined in **Pennsylvania's** institutional **sexual** assault statute), physical condition, or disability that impairs the individual's ability to give consent. Reasons why one could lack capacity to give consent due to a physical condition include, but are not limited to, consumption of drugs or alcohol (voluntarily or involuntarily) or being in a state of unconsciousness, sleep, or other state in which the person is unaware that sexual activity is occurring.

Signs of incapacitation include when an individual demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Some indicators of a lack of capacity to give consent due to consumption of drugs or alcohol may include, but are not limited to:

- Lack of full control over physical movements (for example, difficulty walking or standing without stumbling or assistance);
- Lack of awareness of circumstances or surroundings (for example, lack of awareness of where one is, how one got there, who one is with, or how or why one became engaged in sexual interaction);
- Inability to effectively communicate for any reason (for example, slurring speech, difficulty finding words).

A person may appear to be giving consent but may not have the capacity to do so, in which case the apparent consent is not effective. When determining whether consent was present, the University will consider whether a sober, reasonable person in the same position should have known whether the other party could or could not consent to the sexual activity. If there is any doubt as to another person's capacity to give consent, community members should assume that the other person does not have the capacity to give consent. Being intoxicated or impaired by drugs or alcohol does not excuse one from the responsibility to obtain consent. Being intoxicated or impaired by drugs or alcohol is never an excuse to commit sexual misconduct.

II. Prohibited Conduct

Harrisburg University prohibits all forms of sexual misconduct. Such conduct violates the community values and principles of our institution and disrupts the living, learning, and working environment for students, faculty, staff and other community members. Therefore, the University prohibits the actions listed below. An attempt to commit an act identified in this policy, as well as assisting or willfully encouraging any such act, is also considered a violation of this policy. An act may violate one or more parts of this policy. Community members may also be held responsible for the misconduct of their visitors and guests.

A. Sexual Assault

- *Sexual Penetration without Consent (e.g., rape):* Any penetration of the sex organs or anus of another person when consent is not present; any penetration of the mouth of another person with a sex organ when consent is not present; or performing oral sex on

another person when consent is not present. This includes penetration or intrusion, however slight, of the sex organs or anus of another person by an object or any part of the body.

- *Sexual Contact without Consent (e.g., fondling)*: Knowingly touching or fondling a person's genitals, breasts, thighs, groin, or buttocks, or knowingly touching a person with one's own genitals, breasts, or buttocks, when consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondle oneself or someone else.
- *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by the laws of the state¹ in which the incident occurred.
- *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent under the laws of the state² in which the incident occurred.

B. *Sexual Exploitation*: Taking sexual advantage of another person for the benefit of oneself or a third party when consent is not present.

This includes, but is not limited to, the following actions (including when they are done via electronic means, methods or devices):

- Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent;
- Indecent or lewd exposure or inducing others to expose themselves when consent is not present³;
- Recording any person engaged in sexual or intimate activity in a private space without that person's consent;
- Distributing sexual information, images, or recordings about another person without that person's consent;
- Recruiting, harboring, transporting, providing, or obtaining another person for the purpose of sexual exploitation;
- Inducing incapacitation in another person with the intent to engage in sexual conduct, regardless of whether prohibited sexual conduct actually occurs.

C. *Stalking*: A course of conduct directed at a specific person that is unwelcome and that would cause a reasonable person to fear for their safety (or the safety of a third party) or suffer substantial emotional distress.

¹ For incidents that occur outside of the U.S. (e.g., study abroad programs), Pennsylvania law will apply in determining a violation of this policy.

² For incidents that occur outside of the U.S. (e.g., study abroad programs), Pennsylvania law will apply in determining a violation of this policy.

³ Breast-feeding a child is not indecent.

Conduct that can amount to stalking may include two or more actions directed at another person, whether done directly, indirectly, through others, via devices, or via any other methods or means (specifically including electronic means), including but not limited to:

- Following a person;
- Being or remaining in close proximity to a person;
- Entering or remaining on or near a person's property, residence, or place of employment;
- Monitoring, observing or conducting surveillance of a person;
- Threatening (directly or indirectly) a person;
- Communicating to or about a person;
- Giving gifts or objects to, or leaving items for, a person;
- Interfering with or damaging a person's property (including pets); or
- Engaging in other unwelcome contact.

D. Dating/Domestic Violence: Intimidation, harassment, physical abuse, sexual abuse, or interference with personal liberty of any person by someone in an intimate relationship, as described below. These actions may include, but are not limited to:

- Physical abuse: hitting, slapping, shoving, grabbing, pinching, biting, or hair pulling;
- Psychological or emotional abuse: a pattern of behavior undermining an individual's sense of self-worth or self-esteem, constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with one's children;
- Sexual abuse: attacks on sexual parts of the body, forcing sex after physical violence, treating one in a sexually demeaning manner, coercing or attempting to coerce any sexual contact or behavior without consent.

Individuals encompassed in the definition of *Dating Violence* include, but are not limited to:

- Persons who have or have had a dating relationship;
- Persons who have or have had a social relationship of a romantic or intimate nature.

Individuals encompassed in *Domestic Violence* include, but are not limited to:

- Current and former spouses;
- Current and former domestic partners;
- Intimate partners or dating partners who share or formerly shared a common dwelling;
- Persons who otherwise have a child in common or share a relationship through a child.

E. Sexual Harassment: Sexual harassment is any unwelcome conduct of a sexual nature where: sexual favors are used or threatened to be used as a basis for academic or employment decisions (*quid pro quo* harassment); where the conduct creates a hostile, intimidating or offensive academic or working environment; where the conduct has the effect of unreasonably interfering with an individual's work performance; or where other verbal, nonverbal, or physical conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a person's ability to participate in or benefit from an educational program or activity.

Some examples of sexual harassment may include:

- Pressure for a dating, romantic, or intimate relationship;
- Unwelcome sexual advances;
- Unwelcome touching, kissing, hugging, or massaging;

- Pressure for or forced sexual activity;
- Unnecessary references to parts of the body;
- Remarks about a person's gender, nonconformity with gender stereotypes, or sexual orientation;
- Sexual innuendoes or humor;
- Obscene gestures;
- Sexual graffiti, pictures, or posters;
- Sexually explicit profanity;
- Stalking or cyberbullying that is based on gender or sex;
- E-mail, texting (“sexting”) and Internet use that violates this policy;
- Sexual assault or violence.

All forms of sexual misconduct identified in this policy are also prohibited forms of sexual harassment.

III. Reporting Obligation

All University employees (including student employees), as well as non-employees with teaching or supervisory authority, are obligated to promptly report sexual misconduct of which they become aware in the scope of their work for the University to the Title IX Coordinator or Deputy Title IX Coordinators, unless they are a resource listed in Appendix D. The University encourages all individuals to report sexual misconduct.

IV. Retaliation

Harrisburg University strictly prohibits retaliation against any member of its community for reporting an incident of sexual misconduct or for participating, in any manner, in an investigation or hearing related to a report of sexual misconduct. The University considers such actions to be protected activities in which all members of the Harrisburg community may freely engage.

Retaliation is materially adverse action taken against an individual because they engaged in protected activities, when the adverse action is sufficiently severe or pervasive that it could deter a reasonable person from engaging in the protected activities. Members of the community are prohibited from engaging in actions directly or through others that reasonably could deter a party or a witness from reporting sexual misconduct or participating in an investigation or hearing. Examples of retaliation could include, but are not limited to: terminating someone’s employment; reducing a grade; removing someone from an organization; direct or indirect intimidation, threats, or coercion; or harassment or other forms of discrimination.

The Harrisburg community is strongly encouraged to report any alleged incident of retaliation under this policy to the Title IX Coordinator, who shall investigate the matter and take appropriate actions to address such conduct. Individuals who are found to have engaged in retaliation are subject to disciplinary action that may include, but is not limited to, the sanctions listed in Procedures Section 6B, up to and including exclusion, expulsion, or dismissal from the University, and termination of employment, including revocation of tenure. Sanctions for retaliation may be applied regardless of whether there is a finding on the underlying complaint that sexual misconduct has occurred.

V. Amnesty for Sexual Misconduct Complainants and Witnesses

Harrisburg University encourages reporting of sexual misconduct and seeks to remove any barriers to making a report. The University recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct. To encourage reporting, an individual who makes a good faith report of sexual misconduct that was directed at them or another person will *not* be subject to disciplinary action by the University for a conduct or policy violation that is related to and revealed in the sexual misconduct report or investigation, unless the University determines that the violation was serious and/or placed the health or safety of others at risk. The University may, however, initiate an educational discussion or pursue other educational interventions regarding alcohol or other drugs. These interventions do not include involuntary leaves for students from the University. Amnesty does not preclude or prevent action by police or other legal authorities. This Amnesty provision shall also apply to student groups making a report of sexual misconduct.

VI. Title IX and VAWA Statement

It is the policy of Harrisburg University to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the University's educational programs and activities. It is also Harrisburg's policy to comply with the federal Violence Against Women Act amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, and the accompanying regulations (collectively referred to as VAWA). Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled. Harrisburg has designated the Title IX Coordinator to coordinate Harrisburg's compliance with Title IX and VAWA and to respond to reports of violations. The University has directed its Clery Coordinator to coordinate Harrisburg's compliance with the Clery reporting-related VAWA requirements. A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting www2.ed.gov/about/offices/list/ocr/complaintintro.html or calling 1-800-421-3481.

Procedures⁴

Information covered in this section includes:

1. **Seeking Medical Assistance**
2. **Preserving Evidence**
3. **Confidential Support, Advocacy & Counseling Services**
4. **Reporting Sexual Misconduct**
5. **Protective Measures**
6. **Investigation & Resolution of Alleged Sexual Misconduct Violations**
7. **Educational Training, Awareness & Prevention Programs**

1. Seeking Medical Assistance

Experiencing any form of sexual misconduct, especially acts of violence, is difficult and overwhelming. Survivors often experience a range of emotions, including fear, anxiety, and confusion, and may be unsure of what they want to, or should do, next. Regardless of whether the individual chooses to report the incident, the University strongly encourages survivors of any form of violence to seek medical attention as soon as possible, even if they feel no injury was sustained. Medical assistance providers can treat visible physical injuries and identify injuries that may not be visible, and, where appropriate, also address concerns regarding sexually transmitted infections and pregnancy, and provide emergency contraception (if requested). In addition, a hospital can test for the presence of alcohol or drugs (e.g., “date rape” drugs) and perform a rape evidence collection procedure (see Procedures Section 2), which are also strongly recommended to maintain all legal options.

Medical services are available from the following resources near the Harrisburg campus:

Pinnacle Health Services Sexual Assault Forensic Examiner (SAFE) Program: 717-782-5205, 111 South Front Street, Harrisburg PA 17101, accessible through emergency room
<http://www.pinnaclehealth.org/services-and-resources/our-services/womens-health/our-programs/sexual-assault-forensic-examiner-safe-program>

Medical services are available from the following resources near the Philadelphia campus:

**Thomas Jefferson University Hospital, Center City Philadelphia
Sexual Assault Forensic Examiner (SAFE) Program**
132 South 10th Street, Philadelphia PA 19107, accessible through the Emergency Room on the corner of 10th and Sandom Streets
<http://hospitals.jefferson.edu/departments-and-services/emergency-department-at-jefferson.html>

Philadelphia Sexual Assault Response Center (PSARC), 215-800-1589

Emergencies: Call 215-425-1625 to reach the on-call sexual assault nurse examiner

300 E. Hunting Park Avenue, Philadelphia, PA 19124

<http://drexel.edu/medicine/about/departments/emergency-medicine/forensic-emergency-medicine>

2. Preserving Evidence

Many sexual misconduct offenses also are crimes in the state or locality in which the incident occurred. For that reason, survivors of sexual misconduct often have legal options that they can pursue. These options are available solely at the discretion of survivors, who may change their minds about pursuing them at any time. For example, a survivor may seek a protective order from a court against the perpetrator(s); pursue a civil action against the perpetrator(s); and/or participate in a law enforcement investigation and criminal prosecution of the perpetrator(s). Regardless of whether an incident of sexual misconduct is reported to the police or the University, Harrisburg strongly encourages individuals who have experienced sexual misconduct to preserve evidence to the greatest extent possible, as this will best maintain all legal options for them in the future.

Additionally, such evidence may be helpful in pursuing a complaint with the University. While the University does not conduct forensic tests for parties involved in a complaint of sexual misconduct, the results of such tests that have been conducted by law enforcement agencies and medical assistance providers may be submitted as evidence that may be considered in a University investigation or proceeding, provided they are available at the time of the investigation or proceeding.

Below are suggestions for preserving evidence related to an incident of sexual misconduct. It is important to keep in mind that each suggestion may not apply in every incident:

General evidence preservation suggestions:

- In order to maintain their legal options in the future, individuals should consider not altering, disposing of, or destroying any physical evidence of sexual misconduct.
- If there is suspicion that a drink may have been drugged, an individual should inform a medical assistance provider and/or law enforcement as soon as possible so they can attempt to collect possible evidence (e.g., from the drink, through urine or blood sample).
- Individuals can preserve evidence of electronic communications by saving them and/or by taking screen shots of text messages, instant messages, social networking pages, or other electronic communications, and by keeping pictures, logs, or copies of documents that relate to the incident and/or perpetrator.
- Even if survivors choose not to make a complaint regarding sexual misconduct, they may consider speaking with City of Harrisburg Police to preserve evidence in the event that they change their mind at a later date.

Evidence preservation suggestions specific to sexual assault

- Because some evidence, particularly evidence that may be located on the body, dissipates quickly (within 48-96 hours), individuals who have been sexually assaulted and wish to preserve evidence should go to a hospital or medical facility immediately to seek a medical examination and/or evidence collection. Pennsylvania law, 18 Pa. C.S. § 11.707, provides that the costs of the forensic rape examination and medications provided as a direct result of a sexual offense shall not be charged to the victim. The victim of a sexual offense does not need to ‘report’ the sexual offense or ‘talk’ to law enforcement in order for the costs to be paid by the Victims Compensation Assistance Program (VCAP).
- Health care providers must utilize the victim’s insurance to include Medical Assistance, Health Maintenance Organizations or federally financed insurance programs such as Medicare or Champus, before applying to the VCAP. In instances where the victim or person responsible for the victim requests that the provider not access insurance, the claim may be submitted directly to the VCAP for consideration of payment.
- An individual who has been sexually assaulted and wishes to preserve evidence should, if possible, not shower, bathe, douche, smoke, brush teeth, eat, drink, use the bathroom, or change clothes or bedding before going to the hospital or seeking medical attention.
- If the individual who has been sexually assaulted decides to change clothes or bedding and wishes to preserve evidence, they should not wash the clothes worn or bedding used during the assault, and should bring them to a hospital, medical facility or the police in a non-plastic bag (e.g., paper bag).
- In Pennsylvania, individuals who have been sexually assaulted may allow the collection of evidence even if they choose not to make a report to law enforcement. A SANE advocate or a law enforcement officer will know how long evidence will be stored. A sexual assault evidence collection kit may not be released by a Pennsylvania hospital without written consent from the survivor.

3. Confidential Support, Advocacy & Counseling

The following resources are available for individuals to discuss incidents and issues related to sexual misconduct on a confidential basis. Confidential resources will not disclose information about incidents of sexual misconduct to anyone, including law enforcement or the University, except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or where state law requires a report be made. Confidential resources can provide survivors with information about support services and their options. Because of the confidential nature of these resources, disclosing information to or seeking advice from a confidential counselor does not constitute a report or complaint to the University and will not result in a response or intervention by the University. A person consulting with a confidential resource may later decide to make a report to the University or law enforcement.

Campus *Confidential* Resources

Harrisburg and Philadelphia Campus

Harrisburg University Counseling Center
326 Market Street, Room 253
Harrisburg, PA 17101
717-901-5100, ext. 0253
counseling@harrisburgu.edu

Off-Campus *Confidential* Resources

Harrisburg Campus

YWCA Sexual Assault and Domestic Violence Hotline: 800-654-1211
YWCA of Greater Harrisburg, 717-234-7931
1101 Market Street, Harrisburg PA 17103
<http://www.ywcahbg.org/programs/violence-intervention-and-prevention-services#.WX9Qm4jyvIU>

Philadelphia Campus

Women Organized Against Rape Hotline (215) 985-3333
One Penn Center, 215-985-3315
1617 John F Kennedy Blvd., Suite 1100
Philadelphia, PA 19103 <https://www.woar.org/>

4. Reporting Sexual Misconduct

While the University strongly encourages reporting, members of the University community who believe they have experienced sexual misconduct have the right to choose whether or not to report the incident to the University or law enforcement and pursue a sexual misconduct complaint with the University. The information below provides information for individuals who wish to report incidents of sexual misconduct.

A. Reporting to Law Enforcement

Harrisburg University encourages individuals to report incidents of sexual misconduct to University Police or local law enforcement officials. Timely reporting to the police is an important factor in successful investigation and prosecution of crimes, including sexual violence crimes, and may lead to the arrest of an offender or aid in the investigation of other incidents.

An individual who has experienced sexual misconduct has the right to choose whether to file a police report. Filing a police report can result in the investigation of whether sexual violence or related crimes occurred and the prosecution of those crimes against a perpetrator. It is important to know that reporting the incident to police or University Police does not mean an individual is obligated to testify in court.

Police can also assist in reviewing options with survivors and identifying and facilitating support resources related to:

- Seeking medical attention;
- Seeking support, advocacy and counseling services;
- Discussing legal options, including seeking protective orders from a court;
- Options under the University's sexual misconduct investigation process.

Harrisburg Police Department

123 Walnut Street
Harrisburg, PA 17101
(717) 255-3131
9-1-1 for Emergencies

Philadelphia Police Department

750 Race Street
Philadelphia, PA 19106
9-1-1 for Emergencies
3-1-1 for non-Emergencies

B. Reporting Incidents to the University

An individual who has experienced sexual misconduct has the right to choose whether to report the incident to the Title IX Coordinator. As stated in Policy Section III, all University employees (including student employees) are obligated to promptly report incidents of sexual misconduct of which they become aware during the scope of their work for the University, unless they are a resource listed in Appendix D. Further, students, bystanders, and third parties who have observed

or been made aware of sexual misconduct may report the incident to the Title IX Coordinator. Harrisburg provides the option for making reports in-person, by email, regular mail, or phone.

While anonymous reports will be reviewed by the Title IX Coordinator, the University's ability to address alleged misconduct reported by anonymous sources is significantly limited.

To speak to someone confidentially without making a report, please see the Confidential Resources listed in Section 3 above.

The staff identified below are specially trained to work with individuals who report sexual misconduct and have knowledge about on- and off-campus resources, services, and options – including the availability of protective measures discussed in Procedures Section 5. The University has generally designated the Associate VP for Human Resources to oversee complaints of sexual misconduct involving staff, faculty, and third parties, and the Director of Student Services for Students to oversee complaints of sexual misconduct involving students.

Title IX Coordinator

Contact: Dr. Keith Green, Director of Compliance

326 Market Street
Harrisburg PA 17101
(717) 901-5123
kgreen@harrisburgu.edu

Deputy Title IX Coordinator for Staff and Faculty

Contact: Ben Allatt, Associate VP for Human Resources

326 Market Street
Harrisburg, PA 17101
(717)901-5112

Deputy Title IX Coordinator for Students

Contact: Melissa Morgan, Director of Student Services

326 Market Street
Harrisburg PA 17101
(717) 901-5149

Individuals may also file a report electronically by email to: TitleIXReport@HarrisburgU.edu.

An immediate auto-response email with information about resources and options will be sent in response to reports filed electronically.

5. Protective Measures

Protective measures are reasonable measures the University can put in place for an individual who reports having experienced sexual misconduct or retaliation. Protective measures can provide immediate support and help protect the individual's safety and ability to access their education and employment, at no cost to that individual. These measures can be temporary in duration pending the results of an investigation, but can become permanent. Protective measures include, but are not limited to:

- A no-contact directive issued by the Title IX Coordinator, Deputy Title IX Coordinator, or their designee;
- Housing or work space relocation;
- Adjustment of course schedules or other changes to an individual's academic situation;
- Changes to work schedules or other changes to an individual's employment situation;
- Time off from class or work, or a leave of absence;
- Transportation arrangements;
- Safety planning;
- Honoring an order of protection entered by a court.

Protective measures are available regardless of whether an individual chooses to report an incident to local law enforcement or pursue a complaint with the University. The Title IX Coordinator, or their designee will determine whether protective measures are reasonable and should be implemented, and, if so, will work to ensure that protective measures are implemented as soon as possible. The University will keep confidential any protective measures provided, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the protective measures.

To seek a protective measure:

Students should contact:

Deputy Title IX Coordinator for Students:
 Contact: Melissa Morgan, Director of Student Services
 326 Market Street
 Harrisburg, PA 17101
 (717)901-5149

Staff and faculty should contact:

Deputy Title IX Coordinator for Faculty and Staff
 Contact: Ben Allatt, Associate VP for Human Resources
 326 Market Street
 Harrisburg, PA 17101
 (717)901-5112

Violations of directives related to protective measures may lead to an investigation and disciplinary action which may include, but is not limited to, the sanctions listed in Procedures Section 6B, including exclusion, expulsion, or dismissal from the University, and termination of employment, including revocation of tenure.

6. Investigation and Resolution of Alleged Violations of the Sexual Misconduct Policy

Reporting an incident of sexual misconduct or retaliation to the University can result in the investigation of whether a violation of this policy occurred and can also result in disciplinary action against any student, staff or faculty member, or outside party, who is determined to have violated this policy. The University has generally designated the Title IX Coordinator or Deputy Title IX Coordinators to receive and oversee complaints of sexual misconduct and retaliation. Upon receiving a

report of sexual assault, stalking, or dating or domestic violence, the Office will provide the complainant with information about their rights and options.

The University's resolution process for reports of violations of this policy will be prompt, fair, and impartial. The resolution process is intended to afford a prompt response to reports of sexual misconduct, to maintain privacy and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy. The resolution process for complaints of sexual misconduct is set forth in detail in Appendix C.

Because allegations of violations of this policy can sometimes raise challenging new issues and involve competing interests, the University reserves discretion to take reasonable actions to address those issues in a manner consistent with the spirit of this policy, and which preserves fairness for both parties and maintains the integrity in the investigation and resolution processes.

There is no time limit for when an incident of sexual misconduct may be reported. The Title IX Coordinator reserves the right to conduct an initial inquiry, investigate, or otherwise address any report, regardless of the time it is made, based on concern for the safety or well-being of the University community. All reports should be made as soon as possible after the incident because the passing of time makes a review of the evidence more difficult and the memories of involved parties become less reliable.

If, based on an initial inquiry into the report, the Title IX Coordinator determines that insufficient information exists to move forward or that the alleged misconduct, even if substantiated, would not be a violation of the policy, the Office may close the case unless the Title IX Coordinator determines that the interests of the community warrant further action on the report by the Office or the University.

A. Standard of review

The University uses the preponderance of the evidence standard to determine responsibility of violations of this policy.

B. Sanctions, corrective actions, and remedies

Violations of this policy may result in sanctions and corrective actions, which can include, but are not limited to:

- Verbal warning
- Written warning
- Advisory Letter
- Monitoring
- Disciplinary hold on academic and/or financial records
- Performance improvement/management process
- Required counseling or therapy
- Required training or education
- Campus access restrictions
- No trespass order issued by NUPD (with respect to campus locations)
- No contact directive (with respect to an individual)
- Loss of privileges

- Loss of oversight, teaching or supervisory responsibility
- Probation
- Demotion
- Loss of pay increase
- Transfer (employment)
- Revocation of offer (employment or admissions)
- Disciplinary suspension
- Suspension with pay
- Suspension without pay
- Exclusion
- Expulsion
- Degree revocation
- Termination of employment
- Termination of contract (for contractors)

Sanctions and corrective actions will be imposed in accordance with relevant policies and/or procedures and other requirements set forth in the applicable Staff Handbook, Faculty Handbook, Student Handbook, other policies or handbooks that may be developed over time, or contracts. In addition, the University may take steps to remediate the effects of a violation on victims and others.

Following an investigation, the University may extend protective measures, and/or take other measures to eliminate any hostile environment caused by the sexual misconduct, prevent the recurrence of any sexual misconduct, and remedy the effects of the sexual misconduct on the complainant and the University community. Such measures may include, but are not limited to, the protective measures referenced in Procedures Section 5, as well as counseling, training, and other preventative measures.

C. Advisor/legal counsel

Complainants and respondents may be accompanied by one advisor throughout the investigation and any hearing process. An advisor is a support person who is present to provide support to a complainant or respondent throughout an investigation and/or hearing. An advisor may not speak, write, or otherwise communicate with an investigator, hearing officer or panel on behalf of the complainant or respondent. Advisors who do not abide by these guidelines may be excluded from the process.

In any matter involving a complaint of sexual assault, stalking, or dating or domestic violence, the advisor may be any person of the party's choosing, including an attorney. However, an advisor may not also serve as a witness in the same matter. Further, the advisor is still limited to the supportive and not participatory role described above. In all other matters, advisors cannot be a witness or party in the matter or a related matter, a family member of the complainant or respondent, or an attorney.

D. Privacy and Sharing of Information

The University considers complaints and investigations conducted under this Policy to be private matters for the parties involved. For that reason, the University will protect the identity of persons involved in reports of sexual misconduct to the best of its ability. The University will only share personally identifiable information with persons with a need-to-know, in order for the University to investigate and respond or to deliver resources or support services. The University does not publish the names nor post identifiable information about persons involved in a report of sexual misconduct in the University Daily Crime Log or elsewhere online. The University does not confirm to outside

parties the identity of an individual who may be involved in a report of sexual misconduct without that individual's consent. However, the University cannot promise complete confidentiality or privacy in the handling of sexual misconduct reports or complaints.

Most situations require the disclosure of the complainant's identity to those involved in the investigation in order to fully investigate the matter and/or to enable the respondent to fully respond to the allegations. When individuals report allegations of sexual misconduct to the University and do not consent to the disclosure of their names and/or do not disclose the identity of the alleged offenders or identifiable information about the alleged offenders, the University's ability to respond to the complaints may be limited. In cases where an individual reporting sexual misconduct requests anonymity or does not wish to proceed with an investigation, the University, will attempt to honor that request but, in some cases, the Title IX Coordinator or Deputy Title IX Coordinator may determine that the University needs to proceed with an investigation based on concern for the safety or well-being of the broader University community (e.g., risk of future acts of sexual violence or a pattern of sexual misconduct). Harrisburg reserves the right to take appropriate action in such circumstances, including in cases when the individual reporting the misconduct is reluctant to proceed.

All participants in an investigation of sexual misconduct will be informed that confidentiality helps enhance the integrity of the investigation, protect the privacy interests of the parties, and protect the participants from statements that might be interpreted to be retaliatory or defamatory. For these reasons, the complainant and respondent will be asked at the beginning of an investigation to keep the information related to the investigation private, to the extent consistent with applicable law. Witnesses and advisors will be asked to maintain complete confidentiality as to the investigation, to the extent consistent with applicable law.

Upon the conclusion of an investigation, the complainant and respondent will notified in writing, at the same time, of the outcome of the investigation, including whether the alleged conduct was found to have occurred, and any sanctions imposed on the respondent that directly relate to the complainant. For the same reasons noted above, the University encourages the parties to maintain the confidentiality of this communication.

7. Educational Training, Awareness and Prevention Programs

The University offers a variety of training, awareness, and prevention programs to help prevent sexual misconduct within the Harrisburg community. The University strives to ensure that such programming is developed to be culturally relevant; inclusive of diverse communities and identities; sustainable; responsive to community needs; is informed by research or assessed for value, effectiveness, or outcome; and considers environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels. Additionally, the University provides annual training to investigators, and hearing panel members are trained on issues related to sexual misconduct, investigation, and resolution. For information on educational training, awareness, and prevention programs offered each year, see the Appendices to each campus' annual security report, posted at: <http://harrisburgu.edu/csr/campus-security-report.pdf>

Appendices

Appendix A: Resource of Relevant Terms and Definitions in Pennsylvania

Appendix B: Pamphlet: “You Have Options. We Can Help: Harrisburg University Resource Guide on Sexual Misconduct and Title IX”

Appendix C: Sexual Misconduct Complaint Resolution Process

Appendix D: Resources Not Subject to Mandatory Reporting

APPENDIX A

Resource of Relevant Terms and Definitions in Pennsylvania

Because some of the offenses in this Policy are also crimes under State law, the University provides this summary of relevant Pennsylvania terms and definitions as a resource. Community members who are involved in legal action related to a sexual crime or offense under Pennsylvania law should consider speaking with an attorney for specific information about relevant State law and legal advice.

Consent: TITLE 18 - § 311. Consent.

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

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

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

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

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

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

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

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

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

Domestic Violence: “Domestic Violence” is not explicitly defined in this state’s code.

Under the Violence Against Women Act (2014), Domestic Violence is defined as:

A felony or misdemeanor crime of violence committed--

(i) By a current or former spouse or intimate partner of the victim;

(ii) By a person with whom the victim shares a child in common;

(iii) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;

(iv) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or

(v) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Dating Violence: “Dating Violence” is not explicitly defined in this state’s code.

Under the Violence Against Women Act (2014), Dating Violence is defined as:

Violence committed by a person who is or has been in a social relationship of a romantic or intimate

nature with the victim.

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

(2) For the purpose of this definition--

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

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

Sexual Harassment: "Sexual Harassment" is not explicitly defined in this state's code.

Under Title IX of the United States Education Amendments, Sexual Harassment is defined as:

Unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program.

Sexual Assault: § 3124.1. Sexual assault.

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

§ 3101. Definitions.

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

"Complainant." An alleged victim of a crime under this chapter.

"Deviate sexual intercourse." Sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

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

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

Stalking: § 2709.1. Stalking.

(a) Offense defined.--A person commits the crime of stalking when the person either:

(1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or

(2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

APPENDIX B

You Have Options: We are Here to Help **Harrisburg University's Response to Sexual Misconduct and Assault**

If you or someone you know has been hurt by sexual assault, domestic violence, dating violence, or stalking, Harrisburg University is here to help. You have the right to live, learn, and/ or work in a safe and welcoming environment. Violence is unacceptable, and University policy prohibits sexual assault, domestic violence, dating violence, and stalking. This document outlines steps to take depending on what services you want or need.

Unsure of Where to Start?

You may want more information or to talk to someone confidentially as you decide what you'd like to do moving forward. You can access crisis counseling, information, and support by connecting with the resources listed below.

Are You In Danger?

If yes, call 911.

Do You Need Medical Attention?

You can receive medical attention at any medical facility; however, certain facilities have specially-trained staff to help survivors of sexual assault. The following location can complete a forensic sexual assault exam, and can contact the YWCA of Greater Harrisburg to arrange for a sexual assault hospital advocate:

Pinnacle Health Services: 717-782-5256, 111 South Front Street, Harrisburg PA 17101

It is important to preserve evidence that may be useful in obtaining a protection order or in proceeding with a criminal investigation should you choose to do so. Completing a forensic exam does not require you to file a police report or report to the institution, although we encourage these reports if you are comfortable doing so. Medical exams can also address other physical needs or trauma and assess for sexually transmitted infections or pregnancy. If possible, please do not bathe, douche, smoke, use the toilet or clean the location where the incident occurred. Save items you were wearing, sheets, or towels in a paper bag. Text messages, records of phone calls, emails, pictures, notes, and gifts can all be pertinent for a report of sexual assault, dating violence, domestic violence or stalking. Save text messages, instant messages, social networking pages, and other communications as evidence; and keep pictures, logs, or copies of documents if they could be useful. Your immediate and long-term safety is what's most important. The resources and options outlined below may be helpful as you decide what next steps are a good fit for you.

Confidential On-Campus Resource

Harrisburg University Counseling Center 717-901-5100, ext 0253

Off-Campus Resources

YWCA Sexual Assault and Domestic Violence Hotline: 800-654-1211

RAINN (Rape, Abuse & Incest National Network) Phone: 1.800.656.HOPE <http://www.rainn.org>

Pennsylvania Coalition Against Rape (PCAR): www.pcar.org

Crisis Text Hotline: Text “start” to 741-741

Some people, such as mental health counselors, can talk with you in confidence without triggering a report or an investigation. Specifically, you can contact any of the on- or off-campus confidential resources listed in this handout to report an incident of sexual harassment and/or sexual violence in confidence.

Other than mental health counselors, when faculty and staff learn about sexual harassment and/or sexual violence involving students or employees, they have an obligation to report it.

Even if you do not seek out a confidential resource or ask for privacy, Harrisburg University will only disclose information to individuals who are responsible for handling the response to sexual harassment and/or sexual violence and have a clear need to know.

You have the right to talk with University officials about protecting your safety and privacy.

The University does not publish the names of crime victims or other identifiable information regarding victims in the annual crime statistics that are disclosed in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Furthermore, if a Campus Safety Alert or Timely Warning Notice is issued on the basis of a report of domestic violence, dating violence, sexual assault or stalking, the name of the victim and other personally identifiable information about the victim will be withheld.

Making a Report

You may choose to report to law enforcement, you may choose to report through our campus disciplinary process, you may report to both, or may choose to access neither of these options. Harrisburg University will protect your identity in publicly available information, such as within our annual security report or in warnings sent to the campus community. You also can access the accommodations listed below regardless of where you choose to report and we will keep these accommodations confidential as well, as long as it does not limit our ability to provide them to you. If we would need to share information in order to provide an accommodation, we would notify you of what information needs to be shared, why, and with whom prior to sharing the information.

Regardless of whether or not you report to the police, you can report to the University by contacting:

Director of Student Services, Melissa Morgan 717-901-5149, mmorgan@harrisburgu.edu

Associate Director of Student Life, Nayeem Islam 717-901-4100, nislam@harrisburgu.edu

Title IX Coordinator and Director of Compliance, Keith Green 717-901-5123, kgreen@harrisburgu.edu

Associate VP of Human Resources, Ben Allatt 717-901-5112 for Faculty or Staff

Building Security 717-901-5180

Reporting

In an emergency, dial 911. If you want to contact Harrisburg police directly, you can do so by calling 717-255-2040 or 3-1-1. University staff can also assist students in reporting to the police if requested. Please note that what law enforcement agency to report to can vary depending on the specifics of your case, but we can help you figure out where to go and will assist you in reporting to law enforcement.

Many survivors find law enforcement to be a great resource. Others choose not to report to law enforcement. We always encourage reporting, but know that only you can determine if doing so is the right decision for you. Regardless of whether or not you report to the police, there are campus options, including resolution through the University process, available to you.

Orders of Protection

You can also access orders of protection within our state as well as within the institution. Depending on the nature of the incident, Harrisburg University may be able to issue a no contact order to prevent contact between two individuals. To request a no contact order, please contact the Director of Student Services.

In Pennsylvania, when an abuser is a present or past member of the victim's household or family, the victim is eligible for a Protection From Abuse (PFA) order. When an abuser is not a present or past member of the victim's household or family, adults and minors can petition for a Sexual Violence Protection Order (SVPO). The Protection of Victims of Sexual Violence or Intimidation (PSVI) Act provides victims of sexual violence or intimidation a civil remedy that requires the offender to stay away from the victim regardless of whether the victim seeks criminal prosecution. Victims of sexual violence and intimidation are eligible for relief who do not have a family or household member relationship with the defendant.

Campus Disciplinary Process: Rights and Options

Regardless of whether you choose to report to local or campus police or public safety, there are specific options available to you, if requested and reasonably available. These options are outlined below.

In accordance with the Pennsylvania Act 104, Article XX-G, the "Sexual Violence Education at Institutions of Higher Education Act," enacted November 17, 2010, should you become a victim of sexual violence, you have the following rights:

- You have the right to request assistance from the university to make these notifications.
- You have the right to obtain an order of protection, a no contact order, a restraining order, or similar lawful orders issued by a criminal or civil court, or enforce an order already in existence.
- You have the right to request that a prompt, fair and impartial disciplinary proceeding be initiated against the accused.
- You have the right to be notified of the outcome of any disciplinary actions against the accused.
- You have the right to be notified of any options of changing your academic or campus living situation.
- You have the right to have others present during disciplinary proceeding or other related meetings, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of your choice (*also afforded to the respondent)
- Notification, in writing, of
 - The result of any institutional disciplinary proceeding from your report of dating violence, domestic violence, sexual assault, or stalking
 - Procedures to appeal the results
 - Any change to the results.
 - When the result become final.

The Office for Civil Rights (OCR) oversees the enforcement of Title IX. Contact information for the Office for Civil Rights is as follows: US Department of Education, Office for Civil Rights, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue, SW, Washington, DC 20202 800-421-3481.

APPENDIX C

Harrisburg University's Sexual Misconduct Complaint Resolution Process can be found at:
<http://harrisburgu.edu/policy/sexual-misconduct-complaint-resolution-process.pdf>

APPENDIX D

Resources Not Subject to Reporting Obligation

The University recognizes that students, staff, and faculty may want to speak confidentially with someone at the University about sexual misconduct without the information disclosed being reported to the Title IX Coordinator. Harrisburg has designated the following staff, faculty, and paid student employee roles as resources that are not obligated to report disclosures or information about sexual misconduct to the Title IX Coordinator that they learn in the scope of their University work.

All full-time staff in HU's Mental Health Counseling Center