

# The University of Scranton

## Non-Discrimination and Anti-Harassment Policy

Executive Sponsor: Provost  
Responsible Office: Office of Equity and  
Diversity  
Review of this policy on three-year cycle  
Effective Date: June 11, 2020

**\*All forms of sexual harassment and sexual misconduct are governed by and processed through the Sexual Harassment and Sexual Misconduct Policy, which can be accessed at <https://www.scranton.edu/equity-diversity/docs/sh-sm-policy.pdf>**

### I. Preface

As a Catholic, Jesuit institution of higher learning, The University of Scranton recognizes the important contribution a diverse community of students, faculty, and staff makes towards the advancement of its goals and ideals. The University is dedicated to providing a diverse, inclusive, educational, residential, and working environment that is free of harassment and discrimination, and protecting rights and dignity of all members of the University community and guests. These protections include, but are not limited to, freedom from unlawful discrimination, harassment, or retaliation of any kind, freedom to be heard without reprisal and the assurance of a prompt and equitable investigation and/or resolution. At the same time, the University is committed to the principles of academic freedom. Vigorous discussion and debate, even of controversial matters, are an integral part of the educational experience.

### II. Policy Statement

The University is committed to providing an educational, residential, and working environment that is free from harassment and discrimination. Members of the University community, applicants for employment or admissions, guests and visitors have the right to be free from harassment or discrimination based on race, color, religion, ancestry, gender, sex, pregnancy, sexual orientation, gender identity or expression, age, disability, genetic information, national origin, veteran status, or any other status protected by applicable law.

This policy educates members of the University community about discrimination, harassment, and retaliation and provides clear procedures when a violation of the policy occurs. The policy guides students, employees, applicants, visitors and guests who have experienced, witnessed or been affected by harassment or discrimination.

Retaliation against any person who reports harassing or discriminatory behavior or files a complaint of discrimination or harassment in good faith, participates in any manner in an investigation or resolution of a report or complaint conducted by the University or an external

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agency, or otherwise opposes discrimination under federal and state laws, and this policy, is prohibited.

Any violation of this policy will be treated as misconduct, and may result in appropriate disciplinary action up to and including dismissal from the University.

### **III. Policy Application**

#### **a. Individuals Covered By This Policy**

This policy applies to all University students, faculty, staff, administrators, applicants for employment or admission, guests, volunteers, and visitors. It is the policy of the University to protect its students, faculty, staff and community from harassment and discrimination by other students, faculty, staff, guests, visitors, volunteers, independent contractors, affiliates, vendors, consultants, and others doing business with the University.

#### **b. Individual Conduct:**

Every University of Scranton student has a responsibility to conduct themselves in accordance with this policy as a condition of enrollment.

Every University of Scranton faculty and staff member has a responsibility to conduct themselves in accordance with this policy as a condition of employment.

Every supervisor has a responsibility to report to the University's Executive Director or Assistant Executive Director for the Office of Equity and Diversity complaints of harassment or discrimination that originate in area(s) under their supervision or in their presence in accordance with this policy.

#### **c. Activities and Locations Covered By This Policy**

This policy prohibits any harassing and/or discriminatory behavior based on a protected class while on University property, at University sponsored activities, events, and off-campus programs including but not limited to, study abroad programs, internships, student teaching, clinical, business travel, University sponsored or sanctioned travel, and athletic events. This policy also applies to behavior that has the effect of creating a hostile, intimidating, or offensive working and/or academic environment; or of interfering or limiting one's ability to participate in or benefit from an educational program or activity.

#### **d. Interaction of This Policy and the University's Sexual Harassment and Sexual Misconduct Policy.**

The University maintains a separate Sexual Harassment and Sexual Misconduct policy in compliance with Title IX and VAWA, which is located at <https://www.scranton.edu/equity-diversity/docs/sh-sm-policy.pdf>. If particular conduct occurs that is prohibited by the Sexual Harassment and Sexual Misconduct Policy, then the Sexual Harassment and Sexual Misconduct Policy shall supersede this Policy. In the event a complaint or report is received that involves both a potential violation of the Sexual Harassment and Sexual Misconduct Policy and a violation of this policy, the process, inquiry, and, if appropriate, investigation will be governed by the Sexual Harassment and Sexual Misconduct Policy.

#### **IV. Website Address for this Policy**

This policy is available on the University's Policy website, [www.scranton.edu/governance](http://www.scranton.edu/governance) and on the Office of Equity and Diversity website at <https://www.scranton.edu/equity-diversity/docs/nondiscrimination-antiharassment-policy.pdf>

#### **V. Definitions**

Assistant Director: Assistant Director for the Office of Equity and Diversity.

Complainant: any individual(s) filing a complaint under this policy who is a University of Scranton employee, student, applicant for admission or employment, or other participant in the University's programs or activities, including vendors, visitors, guests, volunteers or other third parties, who believes they have been discriminated against or harassed on the basis of race, color, national origin, religion, ancestry, sex, pregnancy, gender identity and expression, sexual orientation, age, disability, genetic information, national origin, veteran status, or any other characteristic protected by applicable law.

Direct Knowledge: knowledge of an incident attained from directly witnessing that incident.

Discrimination: the denial of rights, privileges, participation, programs, and activities generally provided or made available to Scranton employees, students, applicants for employment and admission and other participants in the University's programs or activities, including vendors, visitors, guests, volunteers or other third parties, parties based on an individual's actual or perceived race, color, religion, ancestry, gender, sex, pregnancy, sexual orientation, gender identity and expression, age, disability, genetic information, national origin, veteran status, or any other status protected by law, that is so severe, persistent, or pervasive that it unreasonably interferes with or limits a student, faculty, staff member, applicant or third party's ability to participate in or benefit from the University's programs, activities or employment. Discrimination may also occur in the granting of a preference or advantage to an individual based on that individual's actual or perceived protected status.

Executive Director: Executive Director for the Office of Equity and Diversity.

Faculty: any member of the University community who teaches on a full-time, part-time or adjunct basis.

Harassment: *for purposes of this policy only, harassment means* the creation of a hostile or intimidating environment, in which conduct, because of its severity and/or persistence, is likely to interfere significantly with an individual's life. Harassment can be uninvited or unwelcome verbal, written, visual or physical conduct based on race, color, religion, ancestry, gender, sex, pregnancy, sexual orientation, gender identity and expression, age, genetic information, national origin, veteran status, disability, or any other characteristic protected by applicable law when such conduct:

- a. Has the purpose or effect of unreasonably interfering with an individual's work or educational performance;

- b. Creates or has the intention of creating an intimidating, hostile, or offensive working and/or learning environment; or
- c. Interferes with or limits one's ability to participate in or benefit from an educational program, activity, or employment.

Unwelcome verbal and/or non-verbal communication and/or conduct, including, but not limited to, in person and via text message, e-mail or any form of social media including any actions, threats, gestures, and/or words based on a protected class may create a hostile environment when it (a) is sufficiently severe, persistent, or pervasive to limit a student, faculty, staff or other third party's ability to participate in or benefit from an education program or creates a hostile or abusive educational environment, or (b) explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive environment. In determining whether harassment has created a hostile environment, consideration will be made, not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive.

Indirect knowledge: awareness of a possible incident of discriminatory harassment or discrimination, supported by credible information, attained from learning about the incident from another individual.

Member of the University Community: any person who is a student or a member of the faculty, staff, or administration, or any other person employed or contracted by the University.

Protected Characteristic, Protected Categories, or Protected Class: any individual characteristic of which harassment or discrimination is prohibited by law or policy. These characteristics include but are not limited to: race, color, national origin, religion, ancestry, sex, pregnancy, gender identity and expression, sexual orientation, age, disability, genetic information, national origin, veteran status, or any other characteristic protected by applicable law.

Respondent: any individual or group of individuals allegedly violating this policy, against whom a complaint is filed.

Retaliation: threats, intimidation, reprisals, and/or adverse actions related to employment or education taken or threatened against a person who reports or files a complaint of discrimination or discriminatory harassment; participates in any manner in an investigation or resolution of a report or complaint conducted by the University or a government agency, or otherwise opposes discrimination under federal and state laws or this policy.

Sexual Harassment: any reports of sexual harassment are reviewed under the Sexual Harassment and Sexual Misconduct Policy. <https://www.scranton.edu/equity-diversity/docs/sh-sm-policy.pdf>.

Staff: any employee of the University whose primary responsibility is not teaching.

Student: any person enrolled in a course or courses at the University, either full or part-time, residing on or off-campus, pursuing undergraduate, graduate, or professional studies; a student

may also be an individual who attends a post-secondary educational institution other than the University but who resides in a University residence. Persons who are not officially enrolled for a particular academic term, but who have a continuing educational relationship with the University, and those who are been admitted to the University but not yet matriculated are considered students. References to a student in this policy may also include groups of students, including clubs and other student organizations.

Supervisor: any employee of the University, excluding full-time faculty, having authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or having the authority to recommend such actions. Supervisor also includes graduate assistants that supervise other student employees.

Third Party: an individual who is not a complainant or respondent who observes or reports behavior thought to be in violation of this policy.

Title IX (of the Education Amendments of 1972): federal legislation which prohibits discrimination based on the sex and gender of students and employees of educational institutions which receive federal financial assistance. For more information, <https://www.scranton.edu/equity-diversity/docs/sh-sm-policy.pdf>.

Title IX Coordinator: the individual at the University designated as responsible for coordinating the University's compliance with Title IX of the Education Amendments of 1972.

Vice President: unless otherwise noted, Vice President for Human Resources.

Visitor: any individual who is not a student at or a faculty or staff member of the University, including persons invited by the University or by a member of the University community, including visiting faculty. The term also refers to one that is present on University property as a condition of their employer's relationship with the University or a member of the University community, as well as persons who are on campus without an invitation.

## **VI. Examples of Conduct that May Constitute Discrimination or Harassment.**

Discrimination and Harassment are difficult to define and can occur in many different ways. Below are some examples of discriminating and/or harassing behavior.

1. Examples of discriminatory conduct include decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals because of the protected characteristics/protected class.
2. Conduct that may constitute harassment or a hostile work environment includes, but is not limited to:
  - a. Epithets, slurs, mocking, disparaging remarks, expressions, jokes, threats, negative stereotyping or other inappropriate communication.
  - b. Threatening, intimidating or hostile acts that are related to a protected category or class.

- c. Assault, battery, other acts of violence, stalking, physical touch, physically interfering with, blocking or impeding an individual's normal movement.
- d. Drawings, pictures, cartoons, doodles, derogatory posters, social media posting, other electronic, paper or media posting, placing, sharing, emailing or disseminating on walls, bulletin boards, email or elsewhere written or other graphic material that shows hostility or aversion to an individual or group that related to a protected category or protected class.

## **VII. Emergency Service and Immediate Care**

The first priority for any individual is personal safety and well-being. The University encourages all individuals to seek immediate assistance from University Police, if applicable, (570)941-7777, the City of Scranton Police Department at 911 and/or a medical facility. This is the best way to address immediate safety concerns while allowing for the preservation of reporting options.

## **VIII. Procedures**

### **A. Generally:**

1. The procedures set forth below are internal administrative procedures of the University. As to those forms of discrimination or harassment that violate state or federal law, an aggrieved party may also file a complaint with appropriate local, state or federal agency, or court, or University or local police.

2. An individual who reports non-compliance or violation of this policy, whether a complainant or witness, can be assured that all reports will be taken seriously, and that each individual will be treated equitably. Similarly, all participants in the process, including respondent, can also expect to be treated equitably.

3. The University reviews allegations of discrimination and discriminatory harassment under this policy and strives to prevent further instances of such behavior by taking appropriate corrective action. All reports under this policy should be made as soon as possible after the alleged conduct occurs. Prompt reporting enables the University to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary/corrective action. At the time a complaint is filed, the complainant will be provided with a copy of this policy, an explanation of the timeframe, procedures, options for resolution, confidentiality, and standard of proof for a finding a violation of this policy.

4. The University cannot take appropriate action unless it is informed of the noncompliance or violation of this policy. All students and employees should report alleged discrimination or harassment, experienced by themselves or another, to the Executive Director or Assistant Director for the Office of Equity and Diversity. No student or employee should assume that the University already knows about a particular situation or event.

### **B. Reports to OED**

1. All members of the University Community are encouraged to report all incidents of harassment which they witness, are known, or are made aware of by another person, to the Executive Director or the Assistant Director for the Office of Equity and Diversity.

2. Individuals **Mandated** To Report Harassment or Discrimination Under this Policy.

The President, Provost, Vice Presidents, Associate Provosts, Deans, Department Chairs, Administrators, Managers, and Supervisors have a mandatory duty to report any actual or perceived incidents or complaints of harassment or discrimination within three (3) business days to the Executive Director or Assistant Director of OED, or as otherwise identified in paragraph D. The Complaint must include the name of the complainant, the name of the respondent, and a brief statement of the alleged conduct, if available. This duty to report applies even when the intention is to resolve the situation through voluntary resolution procedures.

3. Duty To Report Harassment Based on Sex and Gender.

Responsible parties as defined in the Sexual Harassment and Sexual Misconduct policy shall report harassment or misconduct based on sex and gender into accordance with the Sexual Harassment and Sexual Misconduct policy.

### **IX. Confidentiality**

The University has an obligation to investigate and resolve any and all reports of discriminatory and/or harassing behavior. Persons responsible for investigating and resolving reports will make all reasonable efforts to protect the confidentiality and privacy of the complainant, respondent, and any witnesses. Disclosure of information related to the complaint, investigation, and resolution will be made only to persons with need for information, or as required by law. Requests for confidentiality will be considered to the greatest extent possible, provided such request does not preclude the University from effectively responding to the complaint and taking appropriate corrective and preventive action if it believes that the action reported or complained of constitutes a violation of this policy, breaches an applicable law or threat to the University community. However, disclosure of the allegations to the accused and to those within the University administration with a need to know may be necessary to ensure a thorough, fair and impartial investigation as well as to confirm if a pattern of discriminatory or harassing behavior attributed to the accused may exist. In other words, this means that, although confidentiality will be respected, it cannot be guaranteed.

### **X. Knowingly False or Malicious Complaints**

If, after or during the course of the investigation of any complaint of harassment or discrimination, it is discovered that the complaint was knowingly false or filed with malicious intent, the complainant will be referred to the appropriate University office for disciplinary review.

### **XI. Non-Retaliation Statement**

Retaliation against anyone reporting or thought to have reported harassing or discriminatory behaviors or who has participated in a University or external investigative process in relation to such a report is strictly prohibited. Such retaliation shall be considered a violation of this policy, independent of whether a complaint of harassment or discrimination has been substantiated. Anyone who believes they have been retaliated against for participating in this process in any capacity should report the matter promptly to the Office of Equity and Diversity.. Reports and complaints of retaliation will be investigated and dealt with as any other report and complaint brought under this policy.

**XII. Procedures for Review, Voluntary Resolution and Investigation of Complaints under the Non-discrimination and Anti-harassment Policy are contained in *Appendix D*.**

**XIII. Interim Measures (Protective Measures Following an Initial Report)**

**A. Overview**

Upon receipt of a report of complaint, and through the completion of the investigation and determination, the University, through the Office of Equity and Diversity, will take reasonable and appropriate interim measures to protect the parties when there is a significant conduct or health and safety concern that requires immediate intervention to preserve and support the general welfare and academic experience of the parties or the University community. The Executive Director or Assistant Director will contact the parties and remain available to ensure that safety, and emotional and physical well-being concerns, are addressed. Interim measures may be imposed at any time regardless of whether formal disciplinary action is sought by the complainant or the University in order to ensure the preservation of the complainant's educational experience and the overall University environment. Interim measures are kept private to the extent that maintaining the privacy would not impair the ability of the University to provide the interim measures.

The following procedures for interim measures apply to all prohibited behaviors defined in this policy, except for Sexual Harassment or Sexual Misconduct.

1. Complainant or respondent may request interim measures, or the University may choose to impose interim measures at its discretion to ensure the safety of all parties and/or the broader University community. When interim measures are appropriate, the Office of Equity and Diversity shall consult with the appropriate University official who must have authority to impose the interim measure.

2. If the University official believes that interim measures are necessary, either for the sake of the complainant, or other parties, then University officials may impose the least restrictive action that will both protect the complainant, respondent, or others and preserve the interests of the respondent given the circumstances presented. The decision to arrange for interim measures is not based on, or equivalent to a finding of responsibility, and shall not be interpreted as such. Interim measures are initiated based on information gathered during a report and are not intended to be permanent resolutions; hence, they may be amended or withdrawn as additional information is gathered.

3. When the information gathered from the complainant or other witnesses reveals that the alleged misconduct poses an ongoing risk of harm to the safety or wellbeing of an individual or members of the campus community, the University may place an individual on Interim Suspension.

During the interim suspension, the student will be denied access to the residence facilities and/or to the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible, as deemed appropriate.



Similarly, for employees, the University may determine that an administrative leave of absence or other interim remedies as necessary and appropriate.

4. All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure to the Office of Equity and Diversity, UPD, Student Life and Office of Human Resources. The University will take immediate and responsive action to enforce a previously implemented measure.

### **B. Range of Measures**

Interim measures will be implemented at the discretion of the University, and will be established by the Office of Equity and Diversity, in consultation with necessary University administrators, department heads or others as needed and at the Office of Equity and Diversity's discretion. Potential remedies, which may be applied to the complainant and/or the respondent, include but are not limited to:

- Instituting an Administrative Directive for No-Contact between involved parties
- Limiting an individual's access to certain facilities or activities pending resolution
- Referring to counseling and health services
- Referring to the Employee Assistance Program
- Altering work arrangements for employees, including, but not limited to assignments, schedules, locations, etc.
- Providing transportation assistance to the hospital
- Issuing interim suspensions pending an investigation and determination
- Any other measure that can be tailored to the involved parties to achieve the goals of the University's policy

### **XIV. Complaints against Guests, Visitors or Other Non-University Employees or Non-University Students:**

All reported violations attributed to visitors, guests or other non-university employees or non-university students will be reviewed by the Executive Director or Assistant Director. The Executive Director or the Assistant Director will determine if any remedy is appropriate. In situations when the accused is on campus as a result of their employment with a third party, their employer will be notified. The University will notify the educational institution of any student visitor accused of violating this policy.

### **XV. Filing Complaints with External Agencies**

Complaints of harassment or discrimination may also be filed with the appropriate state or federal agency having jurisdiction over the subject matter. Individuals seeking to file such a complaint should familiarize themselves with filing deadlines and procedures by contacting the appropriate agency. These agencies include:

The Pennsylvania Human Relations Commission

<http://www.phrc.state.pa.us>

The Equal Employment Opportunity Commission

<http://www.eeoc.gov>

The Office of Civil Rights-Department of Education

<http://www2.ed.gov>

Although not required, members of the University community who wish to file a complaint with an external agency are encouraged to contact the Office of Equity and Diversity prior to filing a complaint in order to allow the University the opportunity to investigate allegations of discriminatory and/or harassing behavior, and attempt to remedy the situation and provide disciplinary/corrective action in a timely manner.

#### **XVI. The University of Scranton as Complainant**

There are instances when a member of the University community observes (has direct knowledge) or is told of (has indirect knowledge) of behavior in violation of this policy. In those situations or where the individual complainant refuses to pursue the complaint, and the seriousness of the allegation requires further action, the University shall serve as complainant, and the Executive Director or the Assistant Director will appoint an investigator. If there is an allegation that the President or a member of the Board of Trustees be alleged to be in violation of this policy, the Office of Equity and Diversity will request the University's General Counsel to engage independent legal counsel to investigate the allegation.

#### **XII. Records and Files**

The results of a complaint, investigation, or resolution processes, if sanctions are imposed, will be placed in the respondent's file. In the case of staff, this will be their official personnel file; in the case of faculty, this will be their disciplinary file. In the case of students, this will be their disciplinary record. If no sanctions are imposed, a record of the complaint and disposition will be kept in the confidential files of the Office of Equity and Diversity in accordance with the University of Scranton Records and Retention Policy.

**XVIII.** This policy shall not be deemed to take away any rights or responsibilities of faculty members under the Faculty Handbook, administrator and staff members under the Staff and Administrators Handbook, students under the Student Handbook, and Faculty Affairs Council (FAC) members under their respective collective bargaining agreement.

#### **XIX. Campus Resources**

- Executive Director and Assistant Director for the Office of Equity and Diversity
- Dean of Student's Office
- Employee Assistance Program
- University Counseling Center
- Student Health Services
- Campus Ministries
- Cross Cultural Centers
- University Police

#### **XX. Related Documents, Forms, and Tools**

##### ***University Policies:***

The Student Handbook: <https://catalog.scranton.edu/index.php?catoid=45>

The Student Code of Conduct: <https://www.scranton.edu/studentlife/studentaffairs/student-conduct/standardssofconduct.shtml>

The Staff and Administrator Handbook:

The Faculty Handbook: [https://www.scranton.edu/academics/provost/FAC/fac\\_handbook.shtml](https://www.scranton.edu/academics/provost/FAC/fac_handbook.shtml)  
University of Scranton Records Retention Policy [https://www.scranton.edu/general-counsel/docs/records\\_policy.pdf](https://www.scranton.edu/general-counsel/docs/records_policy.pdf)  
Minors on Campus Policy [https://www.scranton.edu/hr/documents/minors-on-campus/MINORS\\_ON\\_CAMPUS\\_POLICY.pdf](https://www.scranton.edu/hr/documents/minors-on-campus/MINORS_ON_CAMPUS_POLICY.pdf)

***Federal and State Laws and Regulations:***

Title VI of the Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964

Age Discrimination in Employment Act of 1967 (ADEA)

Title IX of the Education Amendments of 1972 reports under Title IX should be made in accordance with the Sexual Harassment and Sexual Misconduct Policy.

Americans with Disabilities Act of 1990, (ADA), as amended

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)

The Rehabilitation Act of 1973

Title II of the Genetic Information Nondiscrimination Act of 2008

Pennsylvania Human Relations Act of 1955, as amended (PHRA)

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended

**XXI. Appendices**

Appendix A: Statement of Consensual Relationships

Appendix B: Statement on Academic Freedom

Appendix C: Rights of Complainants and Respondents

Appendix D: Procedures for Review and Investigation of Complaints Under the Non-Discrimination and Anti-Harassment Policy.

## Appendix A.

### Consensual Relationship:

Because the relationship between student and teacher, and supervisor and employee, are central to the mission of the University and to the sense of community, even an apparently consensual sexual relationship may lead to sexual harassment or other breaches of professional obligations. These situations often create a conflict of interest and can easily lead to abuse of power. In addition, such relationships carry the appearance of bias or preferential treatment. Of greatest concern are those romantic and/or sexual relationships between teacher and student, or between supervisor and employee. This includes but is not limited to any teacher, graduate student, administrator, coach, program director, advisor, counselor, or residence-life staff member who has supervisory responsibility for students or employees. Romantic and/or sexual relationships that might be acceptable in other circumstances always pose inherent risks that they will result in sexual harassment when they occur between members of the University community where a significant power or status differential between the parties exists.

Voluntary consent by a student or a subordinate in a dating relationship, even if present, is always suspect, given the fundamentally asymmetrical nature of status and power. This is true even when the parties are not in a direct supervisory/subordinate situation. Professionalism is threatened by any relationship where one party has professional responsibility for the other; such relationships place, or seem to place, the person with the power or status advantage in a position to favor or advance the other party's interests at the expense of others and implicitly make, or seem to make, obtaining benefits contingent on amorous or sexual favors. Professionalism within the University demands that those with authority not abuse, nor seem to abuse, the power with which they are entrusted.

The University prohibits all faculty and staff, including graduate assistants, from pursuing or engaging in dating or sexual relationships with students and co-workers whom they are supervising, mentoring, or teaching.

Anyone involved in or who commences a dating or sexual relationship with someone over whom he or she has supervisory power (employment or academic) must immediately disclose the existence of the relationship to Vice President of Human Resources or to the Office of Equity and Diversity. The individuals involved in the dating or sexual relationship will be required to meet with the Vice President of Human Resources and/or the Executive Director or Assistant Director for the Office of Equity and Diversity, wherein they will be provided with a copy and be trained on the Sexual Harassment and Sexual Misconduct Policy. The Vice President of Human Resources and/or the Executive Director for the Office of Equity and Diversity may require that the individuals involved in the dating or sexual relationship no longer work in the same department. In the event, one or both employees cannot be moved to another position within the University, at least one individual may be required to give up their employment with the University. In the case of student and teacher, the student must withdraw from the class.

Anyone involved in or who commences a dating or sexual relationship with someone over whom he or she has actual or perceived supervisory power or authority (employment or academic) cannot

participate in any decisions that affect the compensation, evaluation, employment conditions, instruction, and/or the academic status of the subordinate involved.

**Appendix B: Statement on Academic Freedom with Respect to The University's  
Nondiscrimination and Anti-Harassment Policy**

In recognition and support of academic freedom for faculty in the pursuit of teaching, in accordance with paragraph 5.3 of the Faculty Handbook, academic freedom shall be considered in investigating and reviewing complaints and reports of discrimination and/or harassment. However, academic freedom will not excuse behavior that constitutes a violation of the law or this policy, when that behavior is reasonably regarded as offensive and substantially impedes a student's ability to learn, or otherwise impairs the academic or work opportunity of students, or of colleagues or co-workers.

### **Appendix C: Rights of Complainants and Respondents**

The law requires that complainants and respondents be treated equally. Any complainant alleging a violation of this policy, and any individual who is accused of violating this policy has the following rights during conduct proceedings conducted by the University.

1. The right to be informed of and to have access to available University resources (e.g., EAP for employees, Counseling Center for students, etc.);
2. The right to be presumed not responsible for violating the policy;
3. The right to an explanation of the allegation(s);
4. The right not to be harassed or retaliated by the respondent, the respondent's acquaintances, or supporters;
5. The right not to be harassed or retaliated by the complainant, the complainant's acquaintances, or supporters;
6. The right to an explanation of the University's formal and voluntary resolution process pursuant to this policy;
7. The right to have a support person throughout the intake, investigatory and hearing process. The support person acts in a support role only, and not as an advocate or spokesperson. The advisor has the same obligations of confidentiality as all other participants in the proceedings;
8. In the case of faculty respondent, to have a FAC officer present at any meeting, inquiry, investigation or hearing at which sanctions are or could be imposed.
9. The right to a hearing without unnecessary delay once the investigation is completed;
10. The right to speak on their own behalf;
11. The right to present witnesses who can speak to the charges;
12. The right to be informed of the outcome of the investigation.

## **Appendix D: Procedures for Review and Investigation of Complaints under the Non-Discrimination and Anti-Harassment Policy**

### **A. Preliminary Review:**

- Any and all complaints received by “Supervisors” must be forwarded to the Office of Equity and Diversity within three (3) business days of receipt for preliminary review.
- The Office of Equity and Diversity shall schedule a meeting with a potential complainant to provide the individual with a general understanding of the relevant policy and the procedures, as well as resources, interim measures, voluntary resolution process and the formal investigation process upon receipt of the complaint.
- The Executive Director or Assistant Director will request that the complaint be placed in writing. If the complainant declines to submit a written complaint, the Executive Director or Assistant Director will prepare a “summary complaint” document based upon the initial meeting with complainant. The failure of the complainant to put the complaint in writing does not relieve the University from its obligation to act in accordance with legal and/or policy requirements in response to the information provided by the complainant.
- The Executive Director or Assistant Director will make a preliminary determination based on the complaint and supporting documents (if submitted) whether the allegations in the complaint, if sustained, would violate the Non-Discrimination and Anti-Harassment Policy (the “policy”).
- If the Executive Director or Assistant Director determines that the allegations, if sustained, would violate the policy, the complainant will be contacted to discuss moving forward under the formal or the voluntary resolution process. The complainant may request either process, but the Executive Director or Assistant Director reserves the right to proceed in either.
- If it is determined that the conduct alleged by the complainant did not violate the policy, the Executive Director or Assistant Director will draft summary report for the file, which will be shared with the complainant and the respondent and, if appropriate, advise the complainant and the respondent that the complaint is being forwarded to other University Authorities (e.g. Human Resources, Provost’s Office, Student Life, supervisory chain of command), if the allegations implicate a possible violation of other University policies or handbooks.

### **B. Voluntary Resolution Process**

In certain circumstances, a voluntary resolution may be available if both the complainant and the respondent agree to move forward with a voluntary resolution process. Below are some voluntary resolution processes that may be utilized to address conduct that may or may not violate the policy.

A voluntary resolution may include, but is not limited to, the inappropriate conduct being brought to the attention of the respondent, an agreement to cease and not repeat specific conduct, an apology, participation in education, training, counseling, medication etc. or a combination thereof. An voluntary resolution will not include any sanction against the respondent; however, the voluntary resolution will be noted in the complainant and respondent’s Office of Equity and Diversity file.



All resolutions resulting in an agreement between the complainant and respondent must be agreed to, and signed by both parties. Any breach of the terms of an agreement may result in disciplinary action or the commencement of a formal process.

If a voluntary resolution cannot be reached during the voluntary resolution process, any statements made to the Executive Director or Assistant Director during the voluntary process may be used in the formal investigation process.

*Status Meetings:* During the voluntary resolution process, monthly status meetings shall be held until the resolution is reached, or until the formal process is initiated. Meetings will be held with both the complainant and respondent, but not necessarily with the two at the same time..

*Mediation:*

- A complainant may request mediation as part of the voluntary process. The Executive Director or Assistant Director will designate a person who is to serve as mediator, if appropriate. Care should be taken that the mediator role not be compromised by existing relationships between the mediator and either of the parties and the mediator be trained in this role and its responsibilities. The respondent may object to mediation in writing at least 48 hours before the mediation.
- If the respondent agrees to participate in mediation, the mediator will contact each party for a pre-mediation meeting. The meetings are confidential and are designed to help clear the way for communication and resolution during mediation.
- Mediation will be conducted in OED or in another mutually agreed upon location.
- If the parties reach a resolution, then the mediator will write a Resolution Agreement, which both parties shall sign. Even when mediation is successful, the University may still have an obligation to conduct an investigation under other University policies.
- If the parties cannot reach an agreement, or one or both parties refuse to sign a Voluntary Resolution Agreement, the complainant or the respondent may request that the Executive Director or Assistant Director conduct an investigation through the formal process.

C. Formal Process

A formal process is initiated when: (1) the Executive Director or Assistant Director determine that the complaint, if sustained, would violate the policy and concludes that the matter is not suited for the voluntary resolution process; (2) mediation or other voluntary resolution process was attempted but not successful; or (3) the Executive Director or Assistant Director notifies the parties that the complaint will proceed as a result of a pattern.

- The Executive Director or the Assistant Director will contact the respondent and notify them that a complaint has been filed, the general nature of the complaint, and the name of the complainant, barring other circumstances, even if the respondent was previously notified of the complaint.
- The following individuals will be notified in writing that a formal process is underway and the name of the respondent:

- Respondent's supervisor and respective vice president, if the respondent is a member of the staff or administration
  - Dean of the College and Provost, if the respondent is a faculty member. If the respondent is a full-time faculty member, the Faculty Affairs Council Chair will be notified that a complaint has been filed against a Faculty member, but shall not name the complainant or respondent.
  - Vice President of Student Life or designees, if the respondent is a student. If the student is also an employee who oversees other student employees, both the Vice President of Student Life and the Vice President of Human Resources will be notified.
- The Executive Director or Assistant Director will meet with the respondent to explain the investigation process to the respondent. Respondent will be given the opportunity to review the written complaint or summary complaint in OED and to take notes.
  - At any time after a complaint has been filed, and before final disposition of the dispute, the Executive Director or Assistant Director may authorize interim measures to protect the best interests of the parties. .
  - The Executive Director or Assistant Director will inform the parties and any witnesses that retaliation against any person who makes a complaint of discrimination or harassment or participates in an investigation is a separate violation of the policy and will not be tolerated.

#### Investigation

- The Executive Director will appoint an investigator. The role of the investigator is as an objective, neutral fact-finder and not as an advocate for either party. The investigation includes interviewing the parties and relevant witnesses, and reviewing written statements, documents, records, and other communications and evidence.
- The Executive Director or Assistant Director may delegate the investigation to another University member trained to conduct investigation, or to an external investigator if they determine that it is in the best interests of all involved.
- Respondent is permitted a support person, or in the event of a full-time faculty member, a FAC officer during any meeting with OED or an investigator.
- In the event there is a concurrent criminal investigation, and at the reasonable request of law enforcement, the University may agree to defer its investigation until after the initial stages of the criminal investigation.
- The investigator may consult with experts, if necessary, to conduct a thorough and fair investigation.

#### Investigation Report:

- The investigator will complete a report at the conclusion of the investigation.
- The investigator's report shall address facts and issues related to the complaint, which may include, but are not limited to:
  - (1) complainant's allegations and/or a summary of any other suspected violations that arose during the investigation;
  - (2) respondent's responses to the allegations or suspected violations, including a summary of the information provided by the respondent;

- (3) a summary of information provided by witnesses;
- (4) a summary of the documents, or other information obtained during the investigation;
- (5) a description of the investigation process;
- (6) findings of fact;
  - (7) credibility determinations;
  - (8) the investigator's determination of whether the policy has been violated; and
  - (9) recommendations for addressing the conduct.

If the investigator determines that the conduct does not violate the policy, the investigator may make recommendations for education and training as appropriate to correct any actions that might lead to future violations of the policy if continued.

Notice of Investigation Outcome:

- The Executive Director or Assistant Director shall provide a "Summary Report" containing a short statement of findings of fact and determination to the complainant and the respondent.
- The written report with findings and recommendations will be provided to:
  - Respondent's respective Vice President and the Vice President for Human Resources, if the respondent is a member of the staff or administration.
  - Provost and the Vice President for Human Resources, if the respondent is a faculty member.
  - Vice President for Student Life, if the respondent is a student. If the Student is also an employee that supervises other student employees, Human Resources will also be provided with a copy of the report.

Determination:

Faculty or Staff:

The Provost or respective Vice President, in collaboration with the Vice President for Human Resources, will determine whether/what corrective action is appropriate consistent with Pennsylvania, Federal law and/or University Policy for any faculty or staff. Corrective action or discipline will be reasonably calculated to make the harassing behavior stop and/or to remedy the effects of discriminatory conduct, up to and including termination.

Once corrective action or discipline is taken, the Vice President for Human Resources or their designee shall provide written proof of said corrective action to the Office of Equity and Diversity for the file within ten (10) business days of the receipt of the report.

Where an investigation does not result in a finding of responsible (faculty or staff), but the investigator raises issues or identifies problems or recommendations, a report will be provided to the Vice President for Human Resources (for staff) or the Provost (for faculty) for review and if appropriate handling.

Students:

The Vice President for Student Life or designee, (in collaboration with the Vice President for Human Resources if the student is also an employee who oversees other student employees), will determine whether/what sanctions are appropriate consistent with University Policy. Sanctions

will be reasonably calculated to make the harassing behavior stop and/or to remedy the effects of discriminatory conduct up to and including expulsion.

A respondent may appeal the Vice President for Student Life or designee in accordance with the provision in Article III, Paragraph F<sup>1</sup> of the Student Code of Conduct.

The Vice President for Student Life or designee shall provide written documentation of the sanctions to the Office of Equity and Diversity for the file within ten (10) business days of the receipt of the report. Where an investigation does not result in a finding of responsible, but the investigator raises issues or identifies problems or makes recommendations, a report will be provided to the Vice President for Student Life for review and if appropriate handling

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<sup>1</sup> "Vice President of Student Life or Designee" shall be substituted for "University Review Board" or "URB" in Article III, Paragraph F, of the Student Code of Conduct for appeal purposes.