

WEST CHESTER UNIVERSITY OF PENNSYLVANIA
SEXUAL HARASSMENT POLICY AND PROCEDURES

West Chester University is committed to equality of opportunity and freedom from unlawful discrimination for all its students and employees. Sexual harassment is a form of unlawful discrimination based on sex and will not be tolerated in any form by faculty, staff, students or vendors. Upon official filing of a complaint, immediate investigation will be made, culminating in appropriate corrective action where warranted, which may include termination of the relationship with the University. Retaliatory actions against persons filing a complaint of sexual harassment, or any person cooperating in the investigation of a complaint, are also prohibited. Acts of retaliation shall constitute misconduct subject to disciplinary action and should be reported to the Title IX Coordinator/Social Equity Director.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other harassing conduct of a sexual nature. Sexual harassment occurs when:

1. Submission to the unwelcome conduct of a sexual nature is made either explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity;
2. Submission to or rejection of the unwelcome conduct of a sexual nature by an individual is used as the basis for an academic or employment related decision affecting such an individual; or
3. The unwelcome conduct of a sexual nature is sufficiently severe, persistent, or pervasive as to substantially limit or interfere with an individual's work, educational performance, participation in extra-curricular activities, or equal access to the University's resources and opportunities; or
4. Such conduct creates an intimidating, hostile, or abusive living, working, or educational environment.

Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs, alcohol, or disability. Physical sexual acts include rape, sexual assault, sexual battery and sexual coercion.

Sexual harassment also includes, but is not limited to, the following types of behaviors:

- Unwelcome physical contact of a sexual nature
- Comments, jokes, questions of a sexual nature
- Pressure for sexual activity
- Looks and gestures of a sexual nature
- Obscene photographs, cartoons, or graphics
- Stalking
- Domestic or dating violence

This policy and the procedures addressed herein are in addition to, and not a replacement for, criminal remedies that may be available. Anyone interested in pursuing a criminal complaint should contact the Office of Public Safety at 610-436-3311 or dial 911 in the case of an emergency. If the incident occurred off-campus, the WCU Public Safety Office will assist the complainant in filing the complaint in the appropriate jurisdiction.

In appropriate situations, interim remedies may be invoked prior to and during the investigation by contacting the Director of Judicial Affairs and Student Assistance in 238 Sykes Student Union, 610-436-3511. Interim remedies include but are not limited to:

- Housing or class reassignments

- “No contact” directives
- An escort
- Medical services
- Counseling services
- Academic support services
- Withdrawal or rescheduling class
- Adjustments to on-campus work, transportation, and parking

This policy is not intended to interfere with the protections afforded by law to freedom of speech. Additional information, including additional examples of what constitutes sexual harassment, is available from the Social Equity Office.

It is a violation of policy for any member of the University community to engage in sexual harassment, or to take retaliatory action against an individual for reporting sexual harassment.

All members of the University community are responsible for ensuring that their conduct does not sexually harass any other member of the University community. Any individual having information about a member of the University community engaging in a specific act or a pattern of behavior which falls within the above definition of sexual harassment must report the matter within 24 hours to the WCU Title IX Coordinator/Social Equity Director, Lynn Klingensmith. The Office of Social Equity is located at 13-15 University Ave., Room 100, 610-436-2433, or email lklingensmith@wcupa.edu.

Reporting Expectations for University Employees

University employees, except those exempted below, are required to provide the name of the victim of any sexually harassing behavior to the Title IX Coordinator/Social Equity Director. The Director will speak with the victim to: ensure that they are aware of available resources, services, and interim safety measures to assist with the physical and emotional aftermath of the incident; advise the victim of the complaint filing options; and take any necessary steps to ensure the safety of the West Chester University community. Under Title IX, the University has an obligation to investigate all complaints of sexual misconduct, and make victims aware of the resources available to them, while striving to respect the privacy and confidentiality of the victim. Consistent with this and related obligations under Title IX, the confidentiality of all parties to the complaint of sexual misconduct will be observed by University personnel to the extent possible. The University's obligation to protect the safety of its students and to record statistics may not permit complete confidentiality, but the University shall take the necessary measures to ensure that the information shared is limited to those individuals required to know.

Several offices on campus are able to provide confidential services to victims of sexual misconduct. The Counseling Center provides complete confidentiality; Counselors are not required to report the incident at all. The Student Health Center, the Women’s Center, and Campus Sexual Misconduct Advocate in the Student Health Services are able to provide limited confidentiality; they are not required to disclose the identity of the victim, but are required to report the incident on the Sexual Misconduct Website or to the Title IX Coordinator/Social Equity Director.

The University has a legal obligation to investigate informal or anonymous reports of sexual harassment to the extent feasible. It is not usually possible to conduct a formal investigation of anonymous reports of sexual harassment, or in situations where a complainant requests confidentiality or asks that the complaint not be pursued; however, the University has a responsibility to take action to prevent

harassment. In the event of anonymous reports of sexual harassment, or if the complainant asks that the complaint not be pursued, the Office of Social Equity will take all reasonable steps to respond to the complaint consistent with the request for confidentiality, which may include meeting with the alleged harasser to provide notification of the allegations and the possible repercussions if a formal complaint is brought forward. The Social Equity Office may recommend voluntary sexual harassment training for an individual or a work unit.

In order to conduct a formal investigation which may result in discipline of a University employee or student, there must be first-hand information by the victim or a witness who is available and willing to be identified and interviewed by the investigator(s). It may be possible to take a third-party complaint if the victim of the alleged harassment is willing to be identified and interviewed. In determining whether a third-party complaint should be formally investigated, the following factors need to be evaluated: (1) is the person filing the complaint trustworthy so that the facts as presented are reliable; (2) does the complaint contain the name and contact information for the victim of the alleged harassment; (3) is there sufficient detail in the complaint to determine whether the allegations fall within the realm of sexual harassment; (4) has the complaint been brought forward in a timely manner.

Supervisors of faculty and staff have the further responsibility of preventing and eliminating sexual harassment within the areas of their authority. If supervisors have information about alleged acts of sexual harassment by someone whom they supervise, they must take immediate steps to ensure the matter is addressed and brought to the attention of the Title IX Coordinator/Social Equity Director. Failure by supervisors to report the alleged acts of sexual harassment may result in disciplinary proceedings. If a manager addresses an issue with an employee which may reference sexually harassing behavior, a representative of the Office of Social Equity is to be involved in the process. Faculty members and staff employees are required to inform the Title IX Coordinator/Director of Social Equity whenever they become aware of behavior they believe to be sexual harassment.

Relationships Between Employees and Students, Supervisors and Subordinates

West Chester University discourages romantic or sexual relationships between employees and students and between supervisors and subordinates. Because of the inherently unequal nature of a relationship in which one party supervises, advises, or evaluates the other, the apparent consensual status of a romantic or sexual relationship between such parties is suspect even when both parties have given voluntary consent. Such relationships not only put into question the individual's professional ethics but have the potential for adverse consequences, including the filing of charges of sexual harassment; thus faculty members and supervisors should be aware that they put themselves at risk if they engage in romantic or sexual relations with a student or subordinate under their supervision.

Trainings Available to the University Community

The Office of Social Equity, in collaboration with the Office of Human Resources, will coordinate and conduct annual "Preventing Harassment and Discrimination Training" for all new faculty, staff, and administrators within 60 days of the commencing their employment with the University through employee orientation programs. Harassment and discrimination training will be conducted for University employees biannually. All university students will be informed and have access to harassment and discrimination training on annual basis.

If You or Someone You Know Has been Sexually Harassed

Individuals who believe themselves to have been sexually harassed, or who have questions about the University's policy on this matter should contact the Title IX Coordinator/Social Equity Director, 13/15 University Avenue, Room 100, (610) 436-2433.

About the University Sexual Misconduct Policy

Additional information about sexual misconduct, including definitions, information about collection of evidence, WCU student Judicial Procedures, and additional resources may be found in the West Chester University Sexual Misconduct Policy which is available at <http://www.wcupa.edu/Sexual Misconduct> and available in hard copy from the Office of Social Equity.

Confidential crisis counseling and support services are available to students through the WCU Counseling Center located in 241 Lawrence Hall, 610-436-2301. Crisis counseling and support services are available to all employees through SEAP which may be contacted at 1-800-692-7459 or on the web at www.liveandworkwell.com, Access code: Pennsylvania.

Sexual Harassment Complaint Procedure

The procedures described in West Chester University's Sexual Harassment Policy represent the University's method for responding to complaints of sexual harassment whether those complaints are formal or informal.

The procedure for informal complaints calls for prompt review and mediation if desired, followed by action intended to prevent any harassment. Mediation will not be utilized for complaints of sexual assault. The procedure for formal complaints also results in prompt review which may result in disciplinary action against someone who has sexually harassed another. To the extent possible, the University expects to complete the investigation within 50 business days of receiving a written complaint unless there are extenuating circumstances which may prevent the University from complying with this timeframe.

Filing a Complaint with External Organizations

The complainant has the right, consistent with this policy's time frame, to file a formal complaint at any time during the informal process or if satisfactory results are not achieved through the informal process. The complainant also has the option of pursuing formal complaints through the following public agencies responsible for enforcing the laws against sexual harassment within the time frames listed:

PA Human Relations Commission (215) 560-2496 180 days

U.S. Dept. of Education, Office for Civil Rights (215) 656-8541 180 days

Equal Employment Opportunity Commission (215) 440-2600 300 days

Right to Representation

Employees accused of sexual harassment have the right to be assisted by their collective bargaining unit representative at any meeting held to discuss the complaint with the accused. If an employee elects to be represented by their union, the union will receive copies of all written notifications sent to the accused. Employees equally have the right not to be represented by their union. The decision regarding union representation rests solely with the accused employee. When a formal investigation is to be conducted against a faculty member, Article 43 of the APSCUF collective bargaining agreement will also govern.

The complainant also has the right to be assisted in all aspects of the complaint procedure by an advocate should they desire to do so. Trained faculty and staff are available to serve to:

- Clarify procedural issues,
- Assist with the preparation of the complaint,
- Make inquiries as to the status of the complaint, and
- Provide other support-related functions.

The Title IX Coordinator/Social Equity Director will provide the name and contact information of an available advocate to the complainant. The role of the Collective Bargaining Unit representatives and complainant advocates is limited to the advice and counsel of their principals only.

If a complaint alleges sexual harassment by an employee of the Office of Social Equity or the Office of the President, the complaint will be investigated by a party external to the University.

Sexual harassment is a serious matter which can have far-reaching effects; therefore, knowingly false or malicious accusations may result in disciplinary action.

Starting the Complaint Process

In order to process either an informal or formal complaint of sexual harassment, the individual, accompanied by an advocate if they wish, must process the complaint through the University's Title IX Coordinator/Social Equity Director. The complainant will provide a written statement to the Title IX Coordinator/Social Equity Director with sufficient factual information to permit the director to make an initial determination if the University policy on sexual harassment may have been violated.

Complaints should be filed up to 180 days after the alleged act or behavior. However, it is in the best interest of all to conduct a timely review of the circumstances of the alleged harassing behavior; accordingly, complainants are urged to file complaints as soon as possible.

In recognition of the dignity and reputations of all parties, it is the intent of the University's employees officially involved in the proceedings or investigation to preserve the confidentiality of the complaints and all proceedings. Disclosure of the complaint will be limited to individuals who, in the interest of fairness and problem resolution, have a need to know. The complainant and the accused are expected to maintain confidentiality consistent with the intent of the University.

The facts will be evaluated using a preponderance of the evidence standard to determine if a violation of this policy has occurred. At the conclusion of the process, written outcomes and resolutions will be provided to the complainant and the accused.

Resources and Next Steps

The sexual harassment complaint process includes different types of procedures for resolving complaints from individuals who believe they may have been the subject of a specific act or a pattern of behavior falling within the definition of sexual harassment. The individual can, if they choose to, inform the offender orally or in writing that those actions are offensive and to ask firmly that they cease. However, should the oral or written request not stop the harassment or if such a request is too difficult to make, then the individual may discuss the issue with the offender's supervisor, department chairperson or dean, or contact any of the below listed University offices to seek assistance:

Title IX Coordinator/Social Equity Director
13-15 University Avenue – Room 100
(610) 436-2433

Director of Women’s Center
Lawrence Center – Room 100
(610) 436-2122

Director of Judicial Affairs and Student Assistance
Sykes Student Union – Room 238
(610) 436-3511

Assistant Vice President for Student Affairs
Sykes Student Union – Room 238
(610) 436-2117

Associate Vice President for Human Resource Services
201 Carter Drive – Suite 100
(610) 436-2800

The above noted offices serve as an initial point of contact and provide information regarding sexual harassment and the University’s procedures in handling complaints.

The Title IX Coordinator/Social Equity Director will be responsible for initially determining if the complaint may represent a violation of the University’s sexual harassment policy. If the Title IX Coordinator/Social Equity Director determines that the complaint does not violate the University’s Sexual Harassment Policy, the individual filing the complaint will be so advised and the on campus case will be closed. If there is a disagreement with this decision, the individual filing the complaint may ask that the decision be reviewed by the Review Panel. The Title IX Coordinator/Social Equity Director does maintain the right to refer the case to other appropriate officials if it appears there may be other misconduct not construed to be sexual harassment. If the Title IX Coordinator/Social Equity Director determines that the allegation may represent a violation of the University’s sexual harassment policy, the complainant may choose to process the complaint through either the informal or formal procedures.

Informal Complaint Procedure

Informal procedures (wherein no formal finding or discipline of an employee will be involved) include efforts to mediate a resolution upon which both the complainant and the individual accused of sexual harassment behavior can agree. It is not appropriate to use this informal complaint procedure in cases of sexual assault.

The complainant initiates the informal procedure by filing a written complaint. Upon review of the informal complaint, the Title IX Coordinator/Social Equity Director will contact the accused to arrange a meeting to inform the individual of the complaint. If the person making the accusation is a student enrolled at the time in the class of the accused, upon request of the student, the Title IX Coordinator/Social Equity Director may delay the notification until after the completion of the semester. The Title IX Coordinator/Social Equity Director will advise the accused of the informal complaint procedures and describe the alleged behaviors which are considered to be offensive by the complainant.

After accepting the informal complaint, informing the accused of the allegations and the complainant's desire for mediation, and with the concurrence of the accused, the Title IX Coordinator/Social Equity Director will facilitate a resolution or appoint a mediator. The Title IX Coordinator/Social Equity Director will notify the parties of the mediator's identity. Mediation occurs by mutual consent; therefore, at any stage of the mediation process either party has the opportunity to withdraw from the process.

The mediator will serve as the facilitator to seek resolution. Information regarding the circumstances and perceptions of the complainant will be shared by the mediator with the accused and the accused will have an opportunity to respond. Depending upon the circumstances of the complaint and/or the willingness of the complainant to be identified, the mediation effort could include either or both the following options:

1. The mediator will facilitate a discussion separately with the accused and the complainant concerning the alleged act or pattern of behaviors giving rise to the complaint in an effort to resolve the situation.
2. Both the accused and the complainant may voluntarily choose to attempt to resolve the situation through meetings in which both parties are present and participate.

At the conclusion of the mediation, the mediator will provide written information regarding the results of the mediation to the Title IX Coordinator/Social Equity Director.

The Title IX Coordinator/Social Equity Director will send a written summary of the outcome to the parties. If the complainant is not satisfied with the outcome, the complainant may choose to file a formal complaint utilizing the University's sexual harassment policy or through external agencies.

If the Title IX Coordinator/Social Equity Director makes a determination that there is a need for a formal investigation, the formal process may be initiated on behalf of the University.

All written summaries of the Informal Complaint Procedure will be maintained by the Social Equity Office for a period of five (5) years.

No written record will be forwarded to the official personnel file.

Formal Complaint Procedure

Formal procedure (wherein a formal finding will be made and discipline of an employee may be imposed if appropriate) includes an investigatory and review process. This investigatory procedure is not intended to interfere with any legal rights an employee or student has under the statutes and other law of the Commonwealth of Pennsylvania or the government of the United States of America. In addition, it is not intended to interfere with any rights an employee may have under the appropriate collective bargaining agreement.

The complainant initiates the formal complaint procedure by filing a written formal complaint. The Title IX Coordinator/Social Equity Director will inform the accused of the allegation and provide the accused with a copy of the written complaint and a copy of the University's sexual harassment policy. No investigation will be commenced until a copy of the complaint and sexual harassment policy has been mailed to the accused by certified mail. The accused employee will be advised of the rights to the union representation if appropriate.

The Title IX Coordinator/Social Equity Director will provide an opportunity to meet with the accused in a timely manner to review the formal complaint and the University's sexual harassment investigatory procedures. The employee may choose to be accompanied by a union representative at this meeting.

After accepting a written formal complaint, the Title IX Coordinator/Social Equity Director will appoint a fact finder. When appropriate, as determined by the Title IX Coordinator/Social Equity Director, two fact finders may be assigned to a case. The Title IX Coordinator/Social Equity Director will notify the parties of the fact finder's identity. In addition, the appropriate manager, supervisor and/or chairperson will be advised. Fact finders are specifically trained and impartial faculty or staff. The fact finder's role is to investigate complaints and make findings of fact pertaining to the complaint. Investigating complaints includes but is not limited to access to records and interviewing the complainant, accused and others who may have relevant information. The fact finder has sole discretion to determine the scope and format of the investigation.

The fact finder will submit a report of their findings to the Title IX Coordinator/Social Equity Director. The Social Equity Office will then convene the Review Panel. This Panel, consisting of three individuals selected by the Title IX Coordinator/Social Equity Director from the pool of specifically trained and impartial faculty or staff, will serve as consultants to the Title IX Coordinator/Social Equity Director in formulating an opinion as to whether reasonable cause exists to believe that a violation of the University's Sexual Harassment Policy has occurred. In consultation with the Review Panel, the Title IX Coordinator/Social Equity Director will formulate an opinion on whether there has been a violation of the University's policy on sexual harassment. The facts will be evaluated using a preponderance of the evidence standard to determine if a violation of this policy has occurred.

If it is determined that there is not enough evidence to warrant a finding of sexual harassment, the complainant and accused will so be notified by the Title IX Coordinator/Social Equity Director and the sexual harassment complaint will be closed. The Title IX Coordinator/Social Equity Director, however, does maintain the right to refer the case to other appropriate University officials if it appears there may be violations of the University's Misconduct Policy or other University policies, not construed to be sexual harassment.

If it is the opinion of the Title IX Coordinator/Social Equity Director that there is reasonable cause to believe that the University's policy on sexual harassment has been violated, the Title IX Coordinator/Social Equity Director will forward the fact finder's report, the Review Panel's recommendations and the Title IX Coordinator/Social Equity Director's opinion to the appropriate manager. Copies of these documents also will be provided to the accused.

The manager will utilize the existing University pre-disciplinary conference procedures, ensuring that the accused employee has the opportunity to be represented, if so desired, by their union representative during the pre-disciplinary conference proceedings. At the pre-disciplinary conference the accused will have an opportunity to rebut the findings of the fact finders' report, the recommendations of the review panel, and the opinion of the Title IX Coordinator/Social Equity Director. After completing the pre-disciplinary conference, the manager in consultation with the Associate Vice President for Human Resource Services and other University officials as needed, will determine if discipline is appropriate, and if appropriate, what level of discipline should be imposed. Possible disciplinary actions for violation of the University's sexual harassment policy include oral or written reprimand, suspension, or termination of employment. The manager is not bound by the opinion of the Title IX Coordinator/Social Equity Director and reserves the right to make their own final determination.

Disciplined employees will have the right to appeal and/or grieve management's decision to the extent provided in the appropriate policy and/or collective bargaining agreement.

The complainant will receive written notification of the final disposition of the complaint. If the complainant finds the resolution or disciplinary action unsatisfactory they may pursue the complaint with the appropriate external agencies.

Addendum to Sexual Harassment Policy – February 2002

The Office of Social Equity reserves the ability to consider whether a violation can be reviewed if it is reported outside the 180-day period for filing a complaint. Factors that affect that consideration include the following:

- Length of time beyond 180 days,
- Whether the alleged behaviors may represent a violation of the University's Sexual Harassment Policy,
- The severity of the allegations,
- The University risk for not handling the allegations, and
- Do the allegations represent a possible pattern of behavior for the accused.

When consideration is being given to accepting a complaint beyond 180 days, management will provide the appropriate collective bargaining unit representative either oral or written notification, giving the collective bargaining unit representative the opportunity to respond within a reasonable time period.