



# 2020 Annual Security & Fire Safety Report

*Statistics for 2017, 2018 & 2019*

Wharton | *San Francisco*

## University of Pennsylvania Nondiscrimination Statement

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*The University of Pennsylvania values diversity and seeks talented students, faculty and staff from diverse backgrounds. The University of Pennsylvania does not discriminate on the basis of race, color, sex, sexual orientation, gender identity, religion, creed, national or ethnic origin, citizenship status, age, disability, veteran status or any other legally protected class status in the administration of its admissions, financial aid, educational or athletic programs, or other University-administered programs or in its employment practices. Questions or complaints regarding this policy should be directed to the Executive Director of the Office of Affirmative Action and Equal Opportunity Programs, Sansom Place East, 3600 Chestnut Street, Suite 228, Philadelphia, PA 19104-6106; or (215) 898-6993 (Voice) or (215) 746-7088 (FAX).*

*Front Cover:*

*2019 Annual Security and Fire Safety Report for Wharton | San Francisco Published: September 2019, for Calendar years 2016, 2017, 2018*

All Emergencies contact the San Francisco Police Department by dialing 9-1-1

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## Important Phone Numbers

### Wharton | San Francisco

Wharton   San Francisco General Information	415-267-6300
San Francisco Police Department	9-1-1
San Francisco Police Dept. Non-Emergency Line	415-553-0123
San Francisco Fire Department	9-1-1
Executive Director, Wharton   San Francisco	415-267-6356
Hills Plaza Security (24 hours)	415-777-3345

### Other University of Pennsylvania Departments at Main Campus

#### University of Pennsylvania Division of Public Safety

General Information	215-898-7297
Office of the Vice President and Superintendent of Police	215-898-7515
Special Services	215-898-4481 215-898-6600 (off-hours)
Fire & Emergency Services	215-573-7857
Security Technology	215-898-4484
PennComm & Emergency Communications	215-573-6687
Finance & Administration	215-898-6696
Security Services	215-573-0644
Penn Police Detective Unit	215-898-4485
Penn Police Records Department	215-898-4482

#### Other University of Pennsylvania Departments

Counseling & Psychological Services (CAPS) Office	215-898-7021
	215-349-5490 (off-hours)
Employee Assistance Program (EAP)	888-321-4433
Human Resources	215-898-7281
Office of Alcohol & Other Drug Program Initiatives	215-573-3525
Office of the Chaplain	215-898-8456
Office of Sexual Violence Prevention & Education	215-898-6081
Office of Student Affairs	215-898-6533
Office of Student Conduct	215-898-5651
Penn Women's Center	215-898-8611
Sexual Violence Investigative Officer	215-898-2887
Student Health Service	215-746-3535
Title IX Coordinator/Office of Affirmative Action	215-898-6993
Vice Provost for University Life (VPUL)	215-898-6081
Student Intervention Services (SIS)	215-898-6081

#### Hospitals

San Francisco General Hospital	415-206-8000
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## PREPARATION OF THE ANNUAL SECURITY REPORT AND DISCLOSURE OF CRIME STATISTICS

The Wharton | San Francisco Security Liaison provides data for reported criminal incidents to Wharton's Executive Director and the University of Pennsylvania Police Department for the purpose of compiling crime statistics. In addition, the San Francisco Police Department provides the University of Pennsylvania Police Department data regarding criminal incidents that occur on the Wharton | San Francisco Campus and in the adjoining public area. The information received is the basis for the crime statistics provided in the Annual Security and Fire Safety Report. When appropriate, Wharton | San Francisco uses Crime Alerts to notify the campus community of crimes that pose a threat to the community, including dissemination via campus postings and e-mail distribution lists.

This report complies with the Jeanne Clery Disclosure of Campus Security and Crime Statistics Act and contains statistics for the previous three years concerning reported crimes that occurred on campus, in certain off-campus buildings or property owned, leased, or controlled by the University of Pennsylvania at Wharton | San Francisco in San Francisco.

This report also includes institutional policies concerning campus security, such as policies regarding sexual assault, alcohol, and other drugs.

The staff at Wharton | San Francisco distributes a notice of the availability of this Annual Security and Fire Safety Report by October 1 of each year to every member of the University community. Anyone, including prospective students and employees may obtain a paper copy of this report by contacting the staff at Wharton | San Francisco at 415-267-6300 or can access an electronic copy of the Annual Security Report on the following url link: [www.publicsafety.upenn.edu/clery/annual-security-fire-safety-report](http://www.publicsafety.upenn.edu/clery/annual-security-fire-safety-report) . There are no fire related statistics included in this report as Wharton | San Francisco does not have any on-campus residence halls. This url connects to the Division of Public Safety Main Campus Clery web page. Look for the PDF file titled **2018 Annual Security and Fire Safety Report for Wharton | San Francisco**

### 2020 Annual Security and Safety Report

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- **Campus Safety & Security:**  
“A Shared Responsibility”

Campus Safety and Security at Wharton | San Francisco is a shared responsibility. Clearly, the best protection against campus crime is an aware, informed, alert campus community.

The vast majority of our students, faculty, staff and visitors do not experience crime at the Wharton | San Francisco campus. However, despite our best efforts, crimes may occur. This information is provided because of our commitment to campus safety and security and in compliance with the federal law, The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The Clery Act), and the amendments to the VAWA (Violence Against Women Act) of March 7, 2013. It is meant to be useful to you. If you have concerns, questions or comments about federal or state law requirements or Penn's compliance with these laws, please contact the Vice President for Public Safety and Superintendent of Police at (215) 898-7515. You may also contact the Executive Director at Wharton | San Francisco, Brandon Lodriguss at 415-267-6356.

- **Wharton | San Francisco Campus/Building Access and Security Procedures**

Wharton | San Francisco occupies the 6<sup>th</sup> floor of the historic Hills Brothers Plaza located at 2 Harrison Street along the city's Embarcadero. The building is open to the public between 7:30 a.m. and 7:00 p.m. Monday through Friday. The building is closed to the public on weekends and holidays. A private security firm contracted by Hills Brothers Plaza building management, monitors after-hours access to the building during evening and weekend classes. In addition, the security firm patrols the building after-hours. All other after-hours access requires an access swipe card. Access swipe cards are only distributed to building tenants and a limited number of cards are made available to full-time staff and students of Wharton's MBA for Executives program and Semester in San Francisco (SSF). **There are no on campus residence halls at Wharton | San Francisco.**

All building emergencies, including all after-hour emergencies should be reported to the Hills Plaza Security by dialing (415) 777-3345. Fire, earthquake, and medical emergencies should always be called into the San Francisco Police Department by calling 9-1-1 first. During business hours after dialing 9-1-1 please alert the Wharton receptionist on duty in person or by calling (415) 267-6300.

- **Report a Crime, Fire, Hazardous Condition or Suspicious Behavior**

All criminal incidents, suspicious behavior, packages, signs of smoke or fires that occur at the Wharton | *San Francisco* campus should be reported to the San Francisco Police Department by dialing 9-1-1 from any phone within the Wharton | *San Francisco* complex as well as dialing 9-1-1 from a personal cell phone. All Incidents should also be reported to the San Francisco Security Liaison at (415) 267-6357 as well as any identified Campus Security Authority (CSA) for Wharton | *San Francisco* for documentation and entry into the Daily Crime Log.

All crimes and criminal incidents may be reported to any Campus Security Authority (CSA) at Wharton | *San Francisco*. Refer to section on CSA for further details.

Should you have any questions or concerns regarding criminal acts or activity, please call the San Francisco Police Department's non-emergency Line at (415) 553-0123.

- **Memorandum of Understanding with local Law Enforcement Authorities**

The staff at Wharton | *San Francisco* works closely with the security staff at Hills Plaza and with the San Francisco Police and Fire Departments. All emergencies, crime, fires, earthquakes, and suspicious activity are immediately reported to 9-1-1. While there is no written Memorandum of Understanding, the staff at Wharton | *San Francisco* attend crime prevention and training seminars sponsored by the local police and have established strong contacts with the department who respond to all emergencies at 2 Harrison Street.

- **Campus Security Authority (CSA)**

A Campus Security Authority (CSA) is an individual who is an official of the institution that has significant responsibility for student and campus activities outside of the classroom, including but not limited to:

- Student Discipline
- Campus Judicial Proceedings
- Faculty Advisor to a student group
- Counselor in a Campus Counseling Center or a Victim Advocate or a Sexual Assault Response Team in a campus Rape Crisis Center

The following Wharton | *San Francisco* administrators have been designated as primary CSA's:

- Kim Cowperthwaite, Associate Director (415) 267-6312
- Bernadette Birt, Executive Director, EMBA (415) 267-6357
- Brandon Lodriguss, Executive Director, WSF (415) 267-6356
- Fele Uperesa, Administrative Coordinator (415) 267-6315

Under Clery a crime is reported when a victim, witness, other third party or even the offender brings it to the attention of a CSA or local law enforcement personnel. It does not matter whether or not the individual/s involved in the crime or reporting the crime are associated with the institution. If a CSA receives the crime information and believes it was provided in good faith, he or she should document it as a crime report and provide this report to the Division of Public Safety University of Pennsylvania Police Department. In "good faith" means there is a reasonable basis for believing that the information is not simply rumor or hearsay. CSAs are not responsible for investigating crimes. Their role is to report all incidents immediately, no matter how minor an incident may seem. All investigations and crime classifications are the responsibility of sworn law enforcement personnel. Only the San Francisco Police Department can investigate crimes at Wharton | *San Francisco*. A training session for CSAs is conducted annually by the Executive Director of Wharton | *San Francisco*, Brandon Lodriguss.

There are two (2) individuals who, although they have significant responsibilities for student and campus activities, are not considered CSAs under Clery. They are pastoral counselors and professional counselors. A pastoral counselor is defined as a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition as a pastoral counselor. A professional counselor is defined as a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification. This definition also applies to professional counselors who are not employees of the institution but are under contract to provide counseling at the institution.

Although pastoral counselors and professional counselors do not have to report crimes that are brought to their attention while serving in an official capacity, they are encouraged to inform their client/s of the procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

- **Confidential Crime Reporting**

Except for communication made to pastoral counselors and licensed professional counselors, all University Campus Security Authorities (CSAs) have the obligation to report all offenses to the local Police through the Executive Director at *Wharton | San Francisco*. It is important for University employees to report statistical information, which may not include personal identifiers. Confidential reports that provide sufficient detailed information for classification of the offense by law enforcement officials using FBI Uniform Crime Reporting Guidelines will be included in crime statistics.

Reported crimes are investigated by the local police and all reported crimes that occur on campus or occur on public property adjacent to 2 Harrison Street or at non-campus owned facilities are maintained in a file by staff at *Wharton | San Francisco*. All reported crime is then listed in the Daily Crime Log which is maintained by the Executive Director at *Wharton | San Francisco*.

- **Timely Warnings**

When the staff at *Wharton | San Francisco* become aware of criminal incidents as reported under the Clery Act that, in the judgment of the senior leadership, constitute an ongoing or continuing threat to the campus community, *Wharton | San Francisco* may issue a Timely Warning, referred to as a “Crime Alert” to notify the community. These Crime Alerts are disseminated without delay by key staff members at *Wharton | San Francisco* via email or group text. Depending on the particular circumstances, a timely warning may be disseminated by using one or a combination of the following: e-mail distribution; various campus publications; crime alerts; and or flyers posted at various locations on campus to advise the community of the situation. Timely warnings (Crime Alerts) are considered on a case-by-case basis. Any timely warning issued shall not contain the names of any victim/s or other identifying information on a victim such as their residence.

- **Emergency Preparedness**

*Emergency preparedness at the Wharton | San Francisco campus is managed by Wharton and Hills Brothers Plaza Building Management. The goal is to prevent, prepare for, respond to and recover from any and all emergencies that could affect the Wharton | San Francisco community.*

*At the direction of the University of Pennsylvania’s Crisis Management Plan, the Blue Book Program detailing specific Emergency Management Procedures was established and Wharton | San Francisco participates in this program. Blue Books are building-specific crisis management action plans (C-MAP) examining all emergency preparedness aspects of campus buildings in the pre-emergency environment. Wharton | San Francisco has a Blue book which details response in an all-hazards approach to emergency management and provides information for emergency responders to manage a crisis event as it unfolds. To view the Blue Book specific to Wharton | San Francisco, contact the Security and Building liaison through the Wharton front desk. Hills Brothers Plaza building management holds annual earthquake and fire evacuation drills in the fall in conjunction with San Francisco Fire Department (SFFD). The SFFD inspects all floors of 2 Harrison Street periodically. All drills and tests are documented by staff assigned to Wharton | San Francisco, noting the date of the drill, location, and time each drill was conducted. There are five fire extinguishers throughout campus and Wharton | San Francisco staff members are properly trained on how to use the extinguishers.*

- **Emergency Notification System**

*The city of San Francisco has developed an optional process to notify the public of emergency situations such as weather emergencies or serious incidents. Should the need occur to notify the City of San Francisco and the surrounding neighborhoods of an emergency at Wharton | San Francisco a text message is generated by the local police. Local police share information with all communities once it is confirmed that there is an imminent or dangerous threat and the notice is sent without delay. Anyone can sign up for these alerts by going to <http://alerts.org/>. In the case of an emergency pertaining only to Wharton | San Francisco, an email alert is generated by senior leadership, who are responsible for notifying all students, faculty, and staff of such emergencies.*

- **University Policy on Rape and Sexual Violence, Relationship Violence, and Stalking**

Sexual violence, relationship violence, and stalking in any form, including sexual assault and rape, is prohibited by the University’s Sexual Violence, Relationship Violence and Stalking Policy. Sexual violence includes a range of behaviors in which an act of a sexual nature is taken against another person without his or her consent or when he or she is unable to consent. The policy can be found in multiple locations, including in Pennbook at <https://catalog.upenn.edu/pennbook/sexual-misconduct-resource-offices-complaint-procedures/> and in Almanac at [https://almanac.upenn.edu/uploads/media/OFF RECORD Sexual Misconduct supplement-Web.pdf](https://almanac.upenn.edu/uploads/media/OFF_RECORD Sexual Misconduct supplement-Web.pdf).

- **Support Services**

Penn provides a number of support resources for victims of rape and sexual violence, relationship violence and stalking, and is committed to providing resources and processes for prevention, education, reporting, adjudication, and protection from retaliation and sanctions. The Director of Special Services in the Penn Division of Public Safety is the designated coordinator of support services for all members of the Penn community who have experienced sexual violence, relationship violence, or stalking. Members of the Penn community who experience any form of interpersonal violence are encouraged to contact Special Services to learn about support and reporting options. Any member of the community who is a victim of sexual violence is encouraged to seek support and assistance and to report the incident. When a victim of a sexual assault or other interpersonal crime contacts the Special Services Department, the individual will be advised verbally and in writing of health, legal and other support services available on and off-campus and the victim will be assisted in accessing these services. Special Services collaborates with Student Intervention Services in the Office of the Vice Provost for University Life to coordinate support such as academic, transportation, working and housing accommodations if requested. Students are encouraged to contact the Special Services Department, which is available 24 hours a day, 365 days a year, at (215) 898-6600 to report an incident and receive support services. Students may also report an incident by calling the San Francisco Police Department by dialing 9-1-1

- **Additional options that provide reporting, counseling and support services are listed below:**

<b>Department</b>	<b>Telephone</b>
San Francisco Police Department (Emergencies)	9-1-1
San Francisco Police Department (Non-Emergencies)	(415) 553-0123
Penn HELP Line (24/7 assistance in navigating Penn resources for health & wellness)	(215) 898-HELP
Office of the Vice President & Superintendent of Police	(215) 898-7515
Division of Public Safety General Information	(215) 898-7297
Special Services Department	(215) 898-6600
Penn Police	(215) 573-3333
Counseling and Psychological Services (CAPS)	(215) 898-7021
Sexual Violence Investigative Officer	(215) 898-2887
Penn Women’s Center	(215) 898-8611
Office of Student Sexual Violence Prevention & Education	(215) 898-6081
VPUL	(215) 898-6081
Student Health Services	(215) 746-3535
The Office of the Chaplain	(215) 898-8456
Title IX/Office of Affirmative Action	(215) 898-6993
African-American Resource Center	(215) 898-0104
Employee Assistance Program	1-888-321-4433
LGBT Center	(215) 898-5044
Office of the Ombudsman	(215) 898-8261



- **Additional options that provide reporting, counseling and support services in San Francisco are listed below:**

**San Francisco General Hospital**

1001 Potrero Avenue  
San Francisco, CA 94110  
Phone: 415-821-3222 (8am-5pm)  
Hotline: 415-206-8256 (24-hour)

(must specify that you are victim of sexual assault when calling and a nurse practitioner will call you back)

- 24-Hour Rape Treatment Center
- 24-hour medical forensic examinations through San Francisco General Hospital Emergency Department. Community Served: All sexual assault survivors.

**Sexual Offender Unit**

Monitors 290PC compliance of registered sex offenders within San Francisco to include the arrest and preparation of cases for prosecution by the District Attorney.

Hall of Justice  
850 Bryant Street, Room 436  
San Francisco, California 94103  
Office: 415-553-1361  
email: [sfpd.sexcrimes@sfgov.org](mailto:sfpd.sexcrimes@sfgov.org)

- **Reporting Options**

A student who would like to report an incident of sexual violence, relationship violence, or stalking has the right to pursue criminal charges through the District Attorney’s Office, City of San Francisco (or the local governance in which the incident occurred) and/or to pursue disciplinary action through the University of Pennsylvania.

Although the University strongly encourages all members of its community to report violations of the Sexual Violence, Relationship Violence and Stalking Policy to law enforcement, it is the victim’s choice whether or not to make such a report, and victims have the right to decline involvement with the police. Whether a victim reports the crime to the police, or not, if the alleged offender is a member of the University community, the victim has a right to proceed to seek University discipline against the offender.

For support and assistance in pursuing criminal charges, victims are encouraged to contact Special Services, regardless of how long it has been since the incident occurred.

Incidents that are reported to the appropriate departments at Penn will be addressed promptly and will be treated as discreetly as possible. The procedures that govern the investigation of sexual assault and other interpersonal crimes will take into account both the need to gather the facts and the rights of all parties involved in the incident.

Those within the campus community who are found responsible for rape or other sexual violence, relationship violence or stalking, are subject to University sanctions which can include but are not limited to suspension, expulsion, and/or separation from the University. In addition, an individual charged may be subject to prosecution by the Office of the District Attorney under California Criminal Statutes.

To pursue criminal options, it is important to preserve evidence. After an incident of sexual assault, it is important to seek medical attention as soon as possible. In California, evidence may be collected even if a victim chooses not to make a report to law enforcement. It is important that victims of sexual assault be advised not to bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted so that evidence, as may be necessary to the proof of criminal activity, may be preserved. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease.

Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, or other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to University hearing boards/investigators or police.

If the victim elects to go through the criminal justice system and/or receive medical treatment, personnel from the *Wharton | San Francisco* will accompany the victim to the San Francisco General Hospital at 1001 Potrero Ave, San Francisco, CA 94110 for evaluation, treatment and/or evidence collection by a Sexual Assault Nurse Examiner (SANE).

Whether the victim chooses to report an incident of rape or sexual violence to the Special Services Department, the San Francisco Police Department, the Office of the Sexual Violence Investigative Officer or another resource office within the campus community, the victim will be informed of reporting options, including the right to report the incident fully and completely to the San Francisco Police Department, or the right to file no report. If requested, University personnel will assist the individual in notifying appropriate authorities or assist in obtaining a Protection from Abuse order (PFA) or a private criminal complaint.

All victims are encouraged to make a report of a crime to the San Francisco Police Department. Campus Security Authorities (CSA's) at Wharton | *San Francisco* may also take reports of crimes while keeping the name of the victim confidential. This allows the CSA to comply with the victim's wishes, while taking steps to ensure the future safety of the victim and the community. With such information, the University can keep accurate records of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method or assailant, and alert the campus community to potential danger. To preserve the identity of all victims, at no time will the name of victims or the location of any sexual assault, domestic violence, dating violence or stalking incident be included in the Daily Crime Log.

We revised and enhanced the University's Sexual Misconduct Policy and Procedures last year with the knowledge that Title IX regulations being proposed by the US Department of Education could necessitate additional changes to Penn's policies and procedures. The new Title IX regulations were issued on May 5, 2020 with an effective date of August 14, 2020. Our leadership team worked to understand the preamble and regulations, which were more than 2,000 pages long, in order to determine what changes were needed to ensure that the University was in compliance with the new regulations. Unfortunately, the timeframe provided did not allow for the broad consultation and comment period that has been Penn's practice and that occurred during academic year 2018-19.

The Policy announced today represents another important step in our work to prevent and respond to sexual misconduct. However, the development and implementation of these policies and procedures is a dynamic process and we will continue our work to ensure that our policies are aligned with our unwavering commitment to provide a healthy and safe environment for all members of the Penn community, free from sexual misconduct. As we implement the revised policies and procedures this fall, we welcome any further comments and advice from faculty, staff, and students regarding ways that might strengthen our policies beyond the changes we have adopted here to ensure that our policies and procedures are effective and fair in dealing with this serious issue.

Amy Gutmann  
President

Wendell Pritchett  
Provost

Craig Carnaroli  
Executive Vice President

J. Larry Jameson  
Dean of the Perelman School of Medicine  
and Executive Vice President of the  
University of Pennsylvania Health System

## University of Pennsylvania Sexual Misconduct Policy, Resource Offices and Complaint Procedures

Effective August 14, 2020

The mission of the University of Pennsylvania is to offer a world-class education to our students, train future leaders, expand and advance research and knowledge, serve our community and society both at home and abroad, and provide the most expert and outstanding healthcare for our patients. To create and sustain a campus climate in which members of the University community are able to thrive and achieve their full potential, the University has established a wide range of policies, educational programs, resources, support, and reporting systems to respond to complaints of sexual misconduct made against students, postdoctoral or other trainees, faculty, and staff. Sexual harassment, sexual violence, and other forms of sexual misconduct will not be tolerated. The University's policies, resources, and complaint procedures include the following:

- I. Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy
- II. Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings
- III. Student Disciplinary Procedures for Resolving Complaints of Sexual Misconduct
- IV. Procedures for Resolving Complaints of Sexual Misconduct Against Faculty
- V. Procedures for Resolving Complaints of Sexual Misconduct Against Staff

As detailed in these policies and procedures, in all cases where a member of the community, or other person, wishes to initiate a complaint against a member of the community (student, faculty, or staff) for sexual misconduct, the complaint should be brought to the Associate Vice President for Equity and Title IX Officer ("AVP"). The AVP will be responsible for determining the appropriate procedures to be followed and will be charged with overseeing the process.

Not every act that might be offensive to an individual or a group necessarily will be considered sexual harassment and/or a violation of the University's standards of conduct. In determining whether an act violates University policy, the totality of the circumstances surrounding the conduct must be carefully reviewed. Due consideration must be given to the protection of individual rights, open expression, and academic freedom.

### Complaints Against Faculty

Any member of the University community, visitor to campus, or a participant in a University-sponsored activity may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or consensual romantic or sexual relationships in the workplace or educational setting against a faculty member, instructor, postdoctoral or other trainee, or teaching assistant. The complaint should be made to the AVP who will meet with the complainant; determine whether the behavior is covered by the Sexual Misconduct Policy and, if so, the appropriate process for resolution or investigation; and oversee that process. If a determination is made that the complaint involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Procedures for Resolving Complaints of Sexual Misconduct Against Faculty. If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, then the AVP will oversee the informal resolution or investigative

process(es). The AVP will advise the Dean of the applicable School that a complaint has been made and discuss any interim measures that may be needed. In either case, for Standing Faculty, the Procedure Governing Sanctions Taken Against Members of the Faculty, *Handbook for Faculty and Academic Administrators*, Part II.E.16, will be followed where applicable. Complaints against faculty alleging inappropriate conduct that does not meet the definition of sexual harassment, sexual violence, or relationship violence or stalking under these policies shall be addressed by the Dean's Office of the School or the Office of the Vice Provost for Faculty, consistent with University policies and procedures.

### Complaints Against Staff

Any member of the University community, visitor to campus, or a participant in a University-sponsored activity may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or consensual romantic or sexual relationships in the educational setting or workplace, against a staff member. The complaint should be made to the AVP who will meet with the complainant and coordinate with the Office of Staff and Labor Relations in the Division of Human Resources, as appropriate. If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, then the AVP will oversee the informal resolution or investigative process(es), advising the Dean or Vice President of the applicable administrative Division that a complaint has been made and discussing any interim measures that may be needed. If a determination is made that the complaint involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Procedures for Resolving Complaints of Sexual Misconduct Against Staff or the applicable collective bargaining agreement. Complaints against staff members alleging inappropriate conduct that does not meet the definition of sexual harassment, sexual violence, or relationship violence or stalking under these policies shall be addressed by the Division of Human Resources and/or the Office of Affirmative Action and Equal Opportunity Programs, consistent with University policies and procedures.

### Complaints Against Enrolled Students

Any member of the University community, visitor to campus, or a participant in a University-sponsored activity may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or consensual romantic or sexual relationships in the educational setting or workplace against an enrolled student. The complaint should be directed to the AVP who will oversee the investigative and resolution process(es). If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, then the AVP will oversee the informal resolution or investigative process(es), advising the Dean of the applicable School that a complaint has been made and discussing any interim measures that may be needed. If a determination is made that the complaint

involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Student Disciplinary Procedures for Resolving Complaints of Sexual Misconduct. Complaints against enrolled students alleging inappropriate conduct that does not meet the definition of sexual harassment, sexual violence, or relationship violence or stalking under these policies shall be addressed by the Office of Student Conduct or the School in which the Respondent is enrolled, consistent with University and School policies and procedures.

The University has resource offices available to provide information, education and support as outlined in the policies and procedures below.

### Reporting and Monitoring

The University is committed to ensuring that members of the University community who share information regarding incidents of sexual misconduct receive the information, counseling and support that they need and are aware of the process for making a complaint. The University is also committed to monitoring reports and complaints of sexual misconduct so that any patterns or systemic problems revealed by such reports and complaints can be addressed. Consistent with these commitments, the University has determined that the AVP should be advised when incidents of

sexual misconduct are reported to the Division of Human Resources (and Human Resources staff in the Schools and Centers); Deans, Vice, Associate, or Assistant Deans in the 12 Schools, Vice Provosts, Office of Affirmative Action and Equal Opportunity Programs (OAA/EOP), and Division of Recreation and Intercollegiate Athletics (DRIA). Information provided to offices designated as confidential resources in the Sexual Misconduct Policy are to provide the AVP with information regarding possible violations that protects the identity of the individual who provided it. However, in all cases in which there is a danger to the parties or others, that information must be reported immediately to Wellness Services or the Special Services Department in the Division of Public Safety. When an incident of sexual misconduct is reported to the AVP, appropriate steps will be taken to ensure that the individual who reported the incident has been advised of the available resources and the process for making a formal complaint. Members of the University community who have crime statistics reporting obligations under the Clery Act are obligated to report the matter to the Division of Public Safety, in addition to the AVP. For additional information about Clery Act reporting or to make a report, refer to the Clery Act & Crime Reporting page at <https://www.publicsafety.upenn.edu/clery/>

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## I. Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy

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

### Sexual Harassment

For the purposes of University policy, the term "sexual harassment"<sup>1</sup> refers to any unwanted conduct that is based on an individual's sex, sexual orientation, gender identity, or gender expression and that:

- Conditions an educational or employment benefit on participation in unwelcome sexual conduct;
- A reasonable person would determine is so severe, pervasive, and/or objectively offensive that it effectively denies a person equal access to an educational or employment program or activity.

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

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

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

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

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

**Consent** is an affirmative decision to engage in mutually agreed upon sexual activity and is given by clear words or actions. Consent may not be inferred from silence, passivity or lack of resistance alone. Furthermore, consent to one form of sexual activity does not imply consent to other

forms of sexual activity and the existence of a current or previous dating, marital or sexual relationship is not sufficient to constitute consent to additional sexual activity. Assent shall not constitute consent if it is given by a person who, because of youth, disability, intoxication or other condition, is unable to lawfully give his or her consent.

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

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

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

In determining whether the alleged conduct violates this policy, consideration will be given to the totality of the circumstances, including the nature of the conduct and the context in which the alleged incident occurred. Generally, complaints of sexual harassment, sexual violence, relationship violence and stalking must be made by members of the University community and those made by individuals who are not students, faculty, staff, post-doctoral or other trainees, or alumni will be directed to external resources available to respond to their complaint or provide support and advice.

The University regards such behavior as a violation of the standards of conduct required of all members of its community. Accordingly, as noted in the University's *Handbook for Faculty and Academic Administrators*, *Human Resources Policy Manual*, *Pennbook* and other publications, persons engaged in such behavior are subject to the full range of internal disciplinary actions, including separation from the institution. The same range of disciplinary actions will be applied in the event of retaliation against an individual who in good faith makes an allegation of sexual harassment, who cooperates in an investigation into such allegations, or who opposes any act of sexual misconduct as defined in this Policy.

Not every act that might be offensive to an individual or a group necessarily will be considered a violation of the University's standards of conduct. In determining whether an act constitutes sexual misconduct, the totality of the circumstances surrounding the conduct must be carefully reviewed. Due consideration must be given to the protection of individual rights, open expression, and academic freedom.

### A. Resources

Schools, Centers and administrative Divisions should make known to all of their members the available resource offices for information, counseling and support, as well as the informal and formal procedures for resolving complaints of sexual harassment within the appropriate School, Center, Division, or at the University level. These resources include the following:

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<sup>1</sup> The terms "harassment" and "sexual harassment" are used throughout and are defined as a matter of University policy, and are not necessarily identical or limited to the uses of the term in external sources, including governmental guidelines, laws, regulations or legal decisions. Where sexual harassment involves sexual violence, relationship violence, domestic violence and/or stalking, refer also to the University's Sexual Violence, Relationship Violence and Stalking Policy. This Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy and the Consensual Romantic & Sexual Relations in the Workplace and Educational Setting Policy are sometimes referred to together as the "Sexual Misconduct Policies."

## 1. Confidential Resources for Information, Counseling and Support

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

Generally, the information shared with the resources listed below will be held in confidence, consistent with the University's obligation to address complaints of sexual violence, unless the person sharing the information gives their consent to the disclosure of that information. Non-identifying information regarding complaints should be provided to the AVP for purposes of assuring compliance with Title IX and other applicable laws and regulations. Confidential resources are not obligated to share identifying information with the AVP when an incident of sexual violence is shared with that resource. However, the commitment to confidentiality does not preclude the sharing of information among University administrators as appropriate to keep members of the University community safe. In addition, confidential resources should submit non-identifying information about incidents of sexual violence to the Division of Public Safety for the purpose of crime statistics reporting under the Clery Act. (For additional information regarding requirements, see the Clery Act & Crime Reporting page at <https://www.publicsafety.upenn.edu/clery/>)

- *African-American Resource Center* (resource for students, staff or faculty)
- *Counseling and Psychological Services*, including its Sexual Trauma Treatment Outreach and Prevention team also known as STTOP (resource for students),
- *Employee Assistance Program* (resource for staff or faculty)
- *Lesbian Gay Bisexual Transgender Center* (resource for students, staff or faculty)
- *Office of the University Chaplain* (resource for students, staff, faculty, postdoctoral and other trainees or visitors)
- *Office of the Ombuds* (resource for students, staff, faculty, postdoctoral and other trainees, or visitors)
- *Penn Violence Prevention* (resource for students)
- *Penn Women's Center* (resource for students, staff or faculty)
- *Special Services Department*, Division of Public Safety (resource for students, staff, faculty, postdoctoral and other trainees or visitors)
- *Student Health Service* (resource for students)

## 2. Informal and Formal Mechanisms for Complaint Resolution

If both parties agree and the AVP deems it to be an appropriate instance for an informal resolution of a complaint, the AVP will meet with the parties individually, and others as appropriate, in an effort to resolve the complaint. When informal resolution is not chosen, one of the parties is not satisfied with the results, or the proposed resolution is not appropriate, the formal mechanisms described below should be used.

A formal complaint of sexual misconduct against any member of the Penn community should be initiated by contacting the AVP. Formal complaints will be handled in accordance with the applicable procedures as set forth below.

### Complaints Against Faculty

Any member of the University community, visitor to campus or a participant in a University-sponsored activity may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or inappropriate romantic or sexual relationships in the educational setting or workplace, against a faculty member, instructor, postdoctoral or other trainee, or teaching assistant. The complaint should be made to the AVP, who will meet with the complainant, determine the appropriate process under University policy for investigation, and oversee that process. If a determination is made that the complaint involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Procedures for Resolving Complaints of Sexual Misconduct Against Faculty. If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, then the AVP will oversee the formal or informal resolution process(es), advising the Dean of the applicable School that a complaint has been made and discussing any interim measures that may be needed. In either case, for Standing Faculty, the Procedure Governing Sanctions Taken Against Members of the Faculty, *Handbook for Faculty and Academic Administrators*, Part II.E.16, will be followed where applicable.

### Complaints Against Staff

Any member of the University community visitor to campus or a participant in a University-sponsored activity may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or inappropriate romantic or sexual relationships in the educational setting or workplace, against a staff member. The complaint should be made to the AVP who will meet with the complainant and coordinate with the Office of Staff and Labor Relations in the Division of Human Resources, as appropriate. If a determination is made that the complaint involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Procedures for Resolving Complaints of Sexual Misconduct Against Staff or the applicable collective bargaining agreement. If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, the AVP will oversee the formal or informal resolution process(es), advising the Dean or Vice President of the applicable administrative Division that a complaint has been made and discussing any interim measures that may be needed.

### Complaints Against Enrolled Students

Any member of the University community or a visitor to campus may bring a complaint of sexual harassment, sexual violence, relationship violence, stalking or inappropriate romantic or sexual relationships in the educational setting or workplace against an enrolled student. The complaint should be directed to the AVP who will oversee the investigative and resolution process(es). If a determination is made that the complaint involves a violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, then the AVP will direct the process in accordance with the Student Disciplinary Procedures for Resolving Complaints of Sexual Misconduct. If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy, then the AVP will oversee the formal or informal resolution process(es), advising the Dean of the applicable School that a complaint has been made and discussing any interim measures that may be needed.

Members of the University community who would like assistance with making a formal complaint may contact any of the confidential resources identified above. As further set forth below, all formal complaints involving Sexual Misconduct are to be initiated by contacting the Associate Vice President for Equity and Title IX Officer ("AVP") who will be responsible for deciding whether the conduct described would violate the Sexual Misconduct Policy, and if so, which investigative or resolution process to pursue.

### B. Reporting and Monitoring

The University is committed to ensuring that members of the University community who share information regarding incidents of sexual misconduct receive the information, counseling and support that they need and are aware of the process for making a formal complaint. The University is also committed to monitoring reports and complaints of sexual misconduct so that any patterns or systemic problems revealed by such reports and complaints can be addressed. Consistent with these commitments, the AVP should be advised when incidents of sexual misconduct, including sexual violence, are reported to any of the University's resource offices (except those identified as confidential resources), Division of Human Resources (as well as Human Resources staff in the Schools and Centers); Deans, Vice, Associate or Assistant Deans of the 12 Schools; Vice Provosts; Office of Affirmative Action and Equal Opportunity Programs (OAA/EOP); and Division of Recreation and Intercollegiate Athletics (DRIA). When an incident of sexual misconduct is reported to the AVP, appropriate steps will be taken to ensure that the individual who reported the incident has been advised of the resources available to them and the process for making a formal complaint. Members of the University community who have crime statistics reporting obligations under the Clery Act are obligated to report the matter to the Division of Public Safety, in addition to the AVP. For additional information about Clery Act reporting or to make a report, refer to the Clery Act & Crime Reporting page at <https://www.publicsafety.upenn.edu/clery/>

### C. Rights of Complainants and Respondents

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

- The option to notify law enforcement;
- The option to have an advisor, including an attorney the party has retained,

present during interviews that are part of a University initiated investigation;

- To be notified of counseling and support services available; and
- To be notified of available options to change academic, living or work arrangements.

#### **D. Education and Prevention**

*All members of the University community have a responsibility to aid in the prevention of sexual harassment and are encouraged to discuss concerns with the AVP or another of the University resource offices listed in the policy. The AVP will ensure that the policy is publicized regularly and that educational programs and training are offered to faculty, staff, and students.*

#### **E. Policy Against Retaliation**

University policy expressly prohibits retaliation against faculty, staff or students who in good faith make reports of violations of this policy. In addition, knowingly and intentionally making a false report of a violation of this policy is prohibited. Members of the Penn community who take adverse action against, intimidate, threaten or otherwise engage in retaliation against a person because they filed a complaint of sexual misconduct or served as a witness during an investigation are subject to disciplinary action, up to and including termination of their employment or expulsion from the University.

## II. Consensual Romantic and Sexual Relationships in the Workplace and Educational Setting Policy

### A. Faculty and Students and Academic Settings

The relationship between faculty member<sup>2</sup> and student is central to the academic mission of the University. No non-academic or personal ties should be allowed to interfere with the integrity of the faculty-student relationship. Consensual sexual relations between faculty and student can adversely affect the academic enterprise, distorting judgments, or appearing to do so to others, and providing incentives or disincentives for student-faculty contact that are inappropriate.

For these reasons, any sexual relations or dating relationships between a faculty member and an undergraduate student enrolled at the University are prohibited. The prohibition extends to all academic advisors and program directors, including those based in the College Houses and other University-owned or administered housing. The prohibition also extends to graduate, professional, or undergraduate student assistants, but, in their case, only with respect to those undergraduate students over whom they have academic responsibility.<sup>3</sup>

Although consensual sexual relations or dating relationships between faculty and graduate or professional students are not categorically prohibited, the University strongly discourages all sexual relations or dating relationships between faculty and graduate or professional students. Further, sexual relations or dating relationships between a faculty member and a graduate or professional student during the period of the faculty/student relationship are prohibited. The prohibition extends to sexual relations or dating between a graduate or professional student and other students for whom they have some supervisory academic responsibility, between department chairs and students in that department, and between graduate group chairs and students in that graduate group. Likewise, sexual relations and dating relationships are prohibited between a graduate or professional student and their academic advisors, program directors, and all others who have any supervisory responsibility for that student.

### B. Workplace and Other Settings

Those entrusted with responsibility for supervising, evaluating, advising, or mentoring other members of the Penn community are in inherently unequal positions. Faculty, staff, and others should not evaluate or supervise those with whom they have a familial, romantic or sexual relationship because of the potential for conflict of interest, or the appearance of favoritism, exploitation or bias. As is the case for faculty, sexual or romantic relationships between staff members and undergraduate students are prohibited. Although consensual sexual relations or dating relationships between staff and graduate or professional students, are not categorically prohibited, the University strongly discourages all sexual relations or dating relationships between staff and graduate or professional students.

Consensual sexual or romantic relationships between those employed by the University as faculty or staff are not in general prohibited by this policy. However, relationships between employees in which one has direct or indirect authority over the other are potentially problematic, including relationships between supervisors and their direct and indirect reports, between senior faculty and junior faculty, and managers and those

<sup>2</sup> For purposes of this policy, “faculty” includes (but is not limited to) standing faculty, clinical faculty, associated faculty, and academic support staff, as well as clinical or lab supervisors, postdoctoral fellows, house staff, residents, graduate and undergraduate teaching assistants, and any other person providing instruction, academic advising, or academic oversight of an enrolled student in any school, course, or program, including summer and off-campus programs, irrespective of geographical location.

<sup>3</sup> “Academic responsibility” includes (but is not limited to) teaching, grading, mentoring, advising, or evaluating research or other academic activity, participating in decisions regarding funding or other resources, clinical supervision, and recommending for admissions, employment, fellowships, or awards. In this context, students include graduate and professional school students, postdoctoral scholars, and clinical residents or fellows.

who report to them (directly or indirectly). If such a relationship develops or exists as a result of a change in employment or academic status, the person in the position of greater authority or power must recuse themselves to ensure that they do not exercise any supervisory or evaluative function over the other person in the relationship. Where such recusal is required, the recusing party must also notify their supervisor, department chair, dean or manager, so that person can ensure adequate alternative supervisory or evaluative arrangements are put in place. Such notification is always required where recusal is required. This obligation to recuse and notify exists for past as well as for current relationships. Failure to disclose the relationship in a timely fashion will itself be considered a violation of policy.

It is understood that sexual or romantic relationships may be private and the University treats such information sensitively and (to the extent practicable) confidentially. The University has the option to take any action necessary to ensure compliance with the spirit of this policy, including transferring either or both employees to minimize disruption of operations.

### Mechanisms for Complaint Resolution

To make a complaint alleging a violation of this policy, the Associate Vice President for Equity and Title IX Officer (“AVP”) should be contacted.

### Complaints Against Faculty

If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relations in the Workplace and Educational Settings Policy, (other than sexual harassment, sexual violence or sexual assault), then the AVP will oversee the informal resolution or investigative process(es), advising the Dean of the applicable School that a complaint has been made and discussing any interim measures that may be needed. In either case, for Standing Faculty, the Procedure Governing Sanctions Taken Against Members of the Faculty, *Handbook for Faculty and Academic Administrators*, Part II.E.16, will be followed where applicable.

### Complaints Against Staff

If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relations in the Workplace and Educational Settings Policy (other than sexual harassment, sexual violence or sexual assault), then the AVP will oversee the informal resolution or investigative process(es), advising the Dean or Vice President of the applicable administrative Division that a complaint has been made and discussing any interim measures that may be needed.

### Complaints Against Enrolled Students

If a determination is made that the complaint involves a violation of the Consensual Romantic and Sexual Relations in the Workplace and Educational Settings Policy (other than sexual harassment, sexual violence or sexual assault), then the AVP will oversee the informal resolution or investigative process(es), advising the Dean of the applicable School that a complaint has been made and discussing any interim measures that may be needed.

### C. Policy Against Retaliation

University policy expressly prohibits retaliation against faculty, staff or students who in good faith make reports of violations of this policy. In addition, knowingly and intentionally making a false report of a violation of this policy is prohibited. Members of the Penn community who take adverse action against, intimidate, threaten or otherwise engage in retaliation against a person because they filed a complaint of sexual misconduct or served as a witness during an investigation are subject to disciplinary action, up to and including termination of their employment or expulsion from the University.

### III. Student Disciplinary Procedures for Resolving Complaints of Sexual Misconduct<sup>4</sup>

#### A. Introduction

The University of Pennsylvania is committed to providing a safe and healthy environment, free of gender-based misconduct, to all members of our community and visitors to our community. As such, sexual harassment, sexual assault, sexual violence, relationship violence, and stalking will not be tolerated. In order to ensure the creation of a climate where students are able to thrive and achieve their full potential, the University has developed a wide range of policies, educational programs, broad-based resources, support, and reporting systems. This amendment to the Student Disciplinary Charter supplements these other policies and initiatives, addressing the process by which complaints against an enrolled University student for a violation of the Sexual Misconduct Policy (which includes its Sexual Harassment, Sexual Violence, Relationship Violence, and Stalking Policy (“Sexual Harassment Policy”)) will be adjudicated and resolved.

#### B. Confidentiality

Confidentiality is of critical importance in ensuring that these sensitive matters are handled appropriately. The University has an obligation to respond to violations of its Sexual Misconduct Policy as fairly and expeditiously as possible when a complaint is received. University staff and faculty may share information with others who have a legitimate need to know in order to fairly and effectively address complaints, but the information should be considered confidential and should be protected to the extent possible consistent with legal obligations. Such administrators may include, for example those in, the Office of the Vice Provost for University Life, the Office of the Associate Vice President and Title IX Officer (AVP), the Division of Public Safety, the Senior Vice President for Institutional Affairs and Chief Diversity Officer, Office of General Counsel, Counseling and Psychological Services, Student Health Service, and academic advising offices.

#### C. Reporting Complaints of Violation of Sexual Misconduct

##### 1. Office of the Associate Vice President for Equity and Title IX Officer (AVP)

The Office of the AVP will be responsible for managing all complaints made against enrolled University students for violations of its Sexual Misconduct Policy (including sexual harassment and sexual violence). Complaints should be lodged with the AVP who will assign the complaint to a trained investigator (IO) who will work under the AVP’s direction and supervision.

Complaints must either be presented in writing or based upon information provided by the complainant to the IO who will then memorialize the allegations in writing and have the allegations confirmed by the complainant. Complainants may include University students or others within the community who allege a violation of the Policy by a student enrolled at the University during the period that student has been enrolled.

##### 2. Office of the District Attorney and Office for Civil Rights

Complainants may also choose to file a report with the District Attorney, the Office for Civil Rights of the U.S. Department of Education, or other external agencies. The University processes and the legal system work independently of one another and the University has its own interest in, and responsibility for, ensuring the enforcement of its Sexual Misconduct Policy.<sup>5</sup> Therefore, the University will not unilaterally defer its processes pending the outcome of any criminal process, nor will the outcome of any legal process be determinative of the University result. The University will, however, comply with reasonable requests by law enforcement for cooperation, and will upon reasonable request temporarily suspend its fact-finding process in a sexual misconduct investigation so as not to impede the law enforcement process.

<sup>4</sup> This procedure amends and supersedes the Charter of the University of Pennsylvania Student Disciplinary System with respect to violations of University policy for behaviors that are defined in the University’s Sexual Misconduct Policy. It applies to each of the 12 schools, notwithstanding the existence of separate procedures that individual schools may have adopted for violations of laws or policies other than the University Sexual Misconduct Policy. If a complaint involves allegations of violations of the Sexual Misconduct Policy as well as other University policies, the matter can either be fully resolved using this process, or divided into two separate proceedings, as appropriate in any particular case.

<sup>5</sup> The University recognizes that should it be proceeding in cases where criminal charges are pending, however, the respondents may choose not to participate in the disciplinary process in order to protect their Fifth Amendment rights. Such decision will not be used as evidence against any respondent and the Hearing Panel will be instructed not to draw any adverse inference from the failure to participate.

#### 3. Support, Counseling and Advice

In making a decision about how to proceed with a complaint, complainants may seek support, counseling, and advice from other offices on campus, including the Special Services Department in the Division of Public Safety, Penn Violence Prevention, Office of the University Chaplain, Penn Women’s Center, Counseling and Psychological Services, Office of the Ombuds, African-American Resource Center, or Lesbian Gay Bisexual Transgender Center. A list of these offices is provided in Section E below. Should a complainant decide to proceed with the University’s disciplinary process against an enrolled University student, the Office of the AVP will be the single place to initiate the process.

#### 4. Timeframe for Submitting a Complaint

The University does not limit the timeframe for filing a report of a violation of the Sexual Misconduct Policy. Reports may be filed at any time, although the University’s ability to investigate or take any action may be limited by the passage of time or the matriculation status of the alleged respondent.

#### 5. Complainant Request for Confidentiality

The University is required by Title IX to weigh the complainant’s request for confidentiality/privacy with the University’s commitment to provide a reasonably safe and nondiscriminatory environment. In situations where a complainant requests confidentiality, the University’s ability to investigate and respond to the allegations may be limited. The IO will notify the complainant if the University cannot, in unusual cases, maintain the complainant’s confidentiality/privacy. The complainant’s and respondent’s identities will only be revealed to those individuals who need to know their names in order to investigate or adjudicate the complaint or provide interim measures. If the University becomes aware of a pattern of behavior by one or more respondents, the University will take appropriate action in an attempt to protect the University community.

#### D. Investigation and Resolution of Complaints

##### 1. Timely Resolution

Where possible, the process of resolving complaints, exclusive of any appeal, should be completed within 60 business days of the filing of the written complaint. The appeal should be completed, where possible, within 30 business days of the filing of the appeal.

In the event that a Hearing Panel is convened, the complainant and the respondent will both be provided with a copy of the decision of the Panel and given 10 business days to file an appeal.

##### 2. Rights and Protections for Complainant and Respondent

(a) The complainant and respondent have the right to a process that is fundamentally fair, and free of bias or prejudice.

(b) The complainant and respondent have the right to be treated with respect, dignity, sensitivity, and fairness throughout the entire process. They are both entitled to seek support from the University and to be informed about the process both before the process is initiated and throughout the process as it unfolds.

(c) Both parties have the right to participate in the process, or to refrain from participation. The failure to participate will not be used as evidence against either party<sup>6</sup>, but also will not prevent the process from proceeding unless the complainant withdraws the complaint and the University determines to abide by that request or the respondent withdraws from the University.

(d) Each party may have a lawyer or other advisor present when being interviewed by the Investigative Team and the Hearing Panel, but the lawyer or other advisor will not be permitted to present statements or seek the production of evidence. The party’s advisor will be able to direct questions to the other party or witnesses interviewed by the Panel subject to determinations of relevance and other procedural issues by the Disciplinary Hearing Officer.

(e) Evidence of prior sexual conduct by the complainant or respondent with other partners will not ordinarily be considered in the process, and any evidence of a prior sexual relationship between the parties will not be determinative of the issue of consent.

(f) If there is credible evidence of a pattern of violations of the Sexual Misconduct Policy, that evidence may be considered by the Hearing Panel if there is a finding of responsibility and a sanction is being determined.

(g) While the process is underway, the Vice Provost for University Life (VPUL) will work with the complainant and respondent, ensuring support is made available to both parties. VPUL will also be responsible for implementing interim measures to protect the parties, or any of the witnesses, consistent with principles of fairness, including implementing measures regarding hous-

<sup>6</sup> Please note that declining to respond to questions posed by the other party’s advisor during a hearing, will impact the Panel’s ability to rely upon the information provided by that individual.



ing, academic accommodations and scheduling changes, no contact orders, and any other appropriate actions to protect the parties or any of the witnesses.

### 3. Preliminary Determination

Upon receiving a complaint, the AVP will make a preliminary determination as to whether the complaint falls within the purview of a Sexual Misconduct Policy and whether, on its face, there appears to be a sufficient basis to conduct a full investigation. In making this determination, the AVP may interview the complainant and the respondent (after advising the respondent of the allegations in writing) and conduct whatever preliminary investigation the AVP deems necessary to determine if the actions alleged in the complaint would, if true, constitute a violation of the University's Sexual Misconduct Policy and there is a reasonable basis for investigating the charges. If the AVP concludes there is insufficient basis to proceed, the matter will be concluded, and the parties so advised.

### 4. Investigation

If the AVP makes the determination that there is a sufficient basis to proceed, the AVP will issue a Statement of Charge Letter, based on the complaint and any preliminary investigation conducted. The Charge Letter will be provided to the complainant and the respondent. The respondent will be provided the opportunity to respond in writing to the Charge, and any response will be shared with the complainant.

The IO will lead a thorough and fair investigation, assisted by one or more co-investigators who may come from the School of the complainant or respondent or from elsewhere in the University (the "Investigative Team"). The co-investigator(s) will be University administrators or faculty members appropriately trained to investigate and handle sexual misconduct cases who are selected for individual cases by the IO. The investigation will include interviews of the complainant and respondent, interviews of witnesses, and review of documentation, physical evidence, and any other relevant evidence.

Prior to interviews, the complainant, the respondent, and any relevant witnesses will be informed by the IO that statements made during the process may be admissible in concurrent or subsequent civil or criminal court proceedings, and will accordingly also be informed of their rights as outlined in Section D.2(c) above. They will also be reminded of the consequences of making false statements to the IO under the Code of Student Conduct and the Charter of the University of Pennsylvania Student Disciplinary System. The complainant and respondent may have their advisors<sup>7</sup> and/or outside counsel present for their interviews, but the advisors or outside counsel will not be permitted to participate in the interview other than to provide advice to the student, and they may be excluded from the interview for disruptive behavior.

In conducting the investigation, the Investigative Team may, as appropriate, also consult with other campus officials including but not limited to administrators in the relevant School, Division of Public Safety, the AVP and Title IX Officer, Senior Vice President for Institutional Affairs and Chief Diversity Officer, or the Vice Provost for University Life. The Investigative Team may also consult with the Office of General Counsel, who may determine in particular cases to engage outside counsel to assist the University throughout this process. The Investigative Team may engage forensic and other experts, as needed.

### 5. Investigative Report

At the conclusion of the investigation, the Investigative Team will prepare a draft factual investigative report, including assessments of credibility, a recommended finding as to responsibility, and recommended sanctions, if appropriate. In making the responsibility determination, the Investigative team will use a "preponderance of the evidence" standard. In other words, to find a student responsible for violating the Sexual Misconduct Policy, the Investigative Team must be convinced that it is more likely than not that a violation of the Sexual Misconduct Policy has occurred.

#### a. Opportunity for Review and Comment

The draft investigative report and related exhibits and evidence will be provided to both the complainant and respondent for review and comment, under strict instructions that they are and at all times remains strictly confidential, and are not to be shared with anyone other than their families and advisors, who must be members of the University community and/or outside counsel, as described above without the expressed consent of the

<sup>7</sup> The University will provide a list of advisors from the Penn community to complainants and respondents who have been trained by the University to support both complainants and respondents in this process. The parties need not select an advisor from this list. The parties may select any Penn faculty or staff member to advise them. The parties may also retain outside counsel in addition to, or instead of, using an advisor. The role of outside counsel, however, will be limited to an advisory role and counsel will not be permitted to have an active role in the proceedings.

AVP. Sharing of the report by either party, their families, advisors or outside counsel with any additional persons is strictly prohibited and anyone with whom the report is shared must be so advised. The complainant and the respondent will be given the opportunity to respond to and comment on the draft investigative report in writing.

#### (b) Final Report

As a result of the response and comments received, the Investigative Team may conduct a further investigation and/or amend the draft report, if the Team determines either action to be warranted. The Investigative Team will prepare a final investigative report, incorporating any changes they believe are appropriate, and then share it with the complainant and the respondent. The complainant and respondent may submit formal objections or comments to the final report, which will become part of the final report of the matter.

### 6. Resolution Without a Hearing

The matter may be resolved at this stage if both parties agree to the recommendations of the Investigative Team with respect to responsibility and, if applicable, sanctions, or if the parties otherwise reach a mutually acceptable resolution. The University, however, will not compel either the complainant or the respondent to engage in face-to-face mediation or to accept the recommendations of the Investigative Team.

### 7. Hearing Panel

If the matter is not resolved at this stage in a mutually acceptable manner, either party may request a hearing before a Hearing Panel (Panel) within 10 business days of transmission of the final report.

#### (a) Panel Membership

The Panel will be comprised of three (3) faculty members and the Disciplinary Hearing Officer (DHO), who will be a non-voting member. The DHO will make all decisions about the organization of the Panel, including decisions regarding the admissibility of evidence, witnesses to appear before the Panel, or any additional decisions regarding the administration of the hearing process.<sup>8</sup>

Membership of the Panel, including the DHO, will observe the following guidelines:

- i. Members will be selected from a pool of faculty who have agreed to serve for a term of one or more years.
- ii. Only mixed-gender panels that have received training in handling complaints involving sexual misconduct will hear sexual misconduct cases.
- iii. Faculty comprising the Panel should be from academic departments in which neither of the parties is enrolled in a course of study, and no faculty member should serve on the Panel who has a mentoring relationship or other personal relationship with either of the parties.
- iv. Faculty asked to serve should recuse themselves or be dismissed if they have any personal ties to either of the parties or to individuals with whom the parties are closely associated, or if they have prior personal knowledge of the alleged incident of sexual misconduct.
- v. The University will train members of the pool to fulfill their responsibilities as adjudicators according to the procedures and policies outlined here and to ensure compliance with Title IX and other applicable state and federal guidelines. In addition, the Panel will be provided with "just in time" training on adjudicating sexual misconduct cases.
- vi. The IO may not serve on the Panel; however, the IO may be interviewed by the Panel regarding the investigation and may assist the DHO as needed in organizational and administrative matters related to the Panel.
- vii. The complainant and respondent will be notified of the membership of the Panel in advance of the Hearing. Any challenges for cause against individual Panel members must be made promptly so as not to delay the conduct of the Hearing and will be given serious consideration by the DHO to ensure impartiality of the proceedings.

viii. All proceedings must be kept strictly confidential among the parties, witnesses and members of the panel. All individuals involved in such hearings must agree to such conditions of confidentiality.

#### (b) Hearing Procedures

Hearings must be prompt, fair, and impartial, affording the complainant's allegations and the respondent's defenses all due consideration and protecting the rights of both parties. The Panel will review the Investigative Team's final report, including any response, objections, or comments provided by the complainant or respondent. The Panel will also carefully review the evidentiary record, including witness statements, documents, and physical evidence.

<sup>8</sup> In carrying out these responsibilities, the DHO may consult with the AVP, the Office of General Counsel and other appropriate office such as the Office of Student Conduct and the Senior Vice President for Institutional Affairs and Chief Diversity Officer. University officers thus consulted will respect the confidentiality conditions of the proceedings.

### Hearing Panel Interviews

i. The Panel will interview separately the IO (and co-investigator(s) if the Panel so chooses), the complainant, and the respondent. The DHO will provide the complainant and respondent with 10 days advance notice of the Hearing. If reasonably possible, interviews will be conducted on one day, but if such scheduling would require an unreasonably long day, or if such scheduling would unreasonably delay the proceeding, the hearing may be scheduled over multiple days.

The Panel may seek additional evidence from the IO and interview key witnesses on whom the IO relied in drawing his or her conclusions, as well as request additional evidence from the IO to clarify the evidentiary record, provided that it can do so without unreasonably delaying the process. In the event that a new witness comes forward during the Hearing who was not originally interviewed by the IO, or new evidence is discovered after the IO has issued his or her report, the DHO may allow that witness to testify or admit the evidence to the hearing, but only if the DHO judges the new witness or evidence to be highly relevant to an accurate and fair determination of the outcome.

ii. The Hearing will be held in private, and only the Panel may conduct interviews. Only the person interviewed (and that person's advisor or outside counsel, as applicable) will be present at the Hearing during interviews. The complainant or respondent (and their advisor or outside counsel, as applicable) will be able to view testimony from separate rooms, upon request, via closed-circuit television or similar video transmission.

iii. Subject to the Rights and Protections set forth in Section D.2 above, the Panel has wide latitude when questioning the complainant, the respondent, and any witnesses in order to determine the accuracy of the final report.

iv. The complainant and respondent may propose witnesses and providespecific questions in advance that they believe important to ask of other parties or witnesses. The DHO, in consultation with the Panel, will determine the relevance as well as the appropriateness of witnesses and questions, and may accordingly place restrictions on, include, or exclude witnesses or other information.

v. When the Panel is conducting the interview of the complainant and respondent, each student will have an advisor or outside counsel with them to provide advice and support. The advisor or outside counsel will be permitted to address questions to the other party during the Hearing subject to determinations of relevancy and other appropriate considerations. If an advisor's behavior is disruptive, the Hearing will be adjourned and the advisor may be excluded from the Hearing.

The interviews by the Panel will be recorded (audio only). No observers will be permitted to make any audio or video recordings.

#### (c) Hearing Panel Decision

After the Hearing concludes, the Panel will immediately deliberate in private to decide whether a preponderance of the evidence shows that the respondent is responsible for a violation of the University's Sexual Misconduct Policy. Preponderance of the evidence means that the Panel must be convinced based on the evidence that it is more likely than not that a violation has occurred in order to find a student is responsible for a violation of the policy. A finding of responsibility requires a majority vote of the members of the Panel.

If the respondent is found responsible, the Panel will also determine the appropriate sanction, by majority vote, based upon the facts of the case and University precedent, with a presumption in favor of the sanction recommended by the IO.

The Panel will arrive at its conclusion as expeditiously as possible and will promptly advise both the complainant and the respondent in writing of its decision with respect to responsibility and, if applicable, sanctions. In keeping with guidelines for timely resolution as provided in Section D1 above, the written decision will be provided as soon after the conclusion of the proceeding as is possible.

Decisions made by the Panel are considered final, subject only to appeal as outlined below.

#### (d) Appeal of Hearing Panel Decision

The Panel decision is subject to appeal by either party in writing to a Disciplinary Appellate Officer (DAO), a faculty member with exclusive jurisdiction to decide appeals. In keeping with guidelines for timely resolution as provided in Section D1 above, appeals should be submitted within 10 business days after the decision of the Panel. Letters of appeal should specifically state whether the objection is to the judgment of responsibility, the sanction, or both, and explain in detail the grounds for appeal. The request for an appeal will be shared with the other party who will have the opportunity to provide a response or otherwise direct comments to the DAO within 10 business days. Any such comments or response will be shared with the other party.

The DAO will review the report of the Investigative Team and supporting evidence, the audio record from the Panel Hearing, and any other material the DAO deems relevant, in addition to the decision of the Panel in order to ensure that the process was consistent with University policy and that the result was not arbitrary or capricious, that there were no procedural irregularities, that there was no demonstrated bias or conflict of interest

on the part of any fact-finder, and that no new evidence has been brought forward that would alter the outcome of the Hearing.

After considering the appeal, the DAO will promptly issue their decision in writing and will provide copies to the DHO, the Provost, the Senior Vice President for Institutional Affairs and Chief Diversity Officer, the complainant, respondent(s) and other appropriate parties.

### E. Resource Offices

#### 1. Confidential Resources

The following can be contacted for support, counseling, and advice:

**Special Services Department, Division of Public Safety**

24-hour Helpline: (215) 898-6600

4040 Chestnut Street

<http://www.publicsafety.upenn.edu/special-services/>

**Counseling & Psychological Services (CAPS)**

(215) 898-7021

After-hours emergency number: (215) 349-5490

3624 Market Street, 1st Floor, West

<http://www.vpul.upenn.edu/caps/>

**Sexual Trauma Treatment, Outreach and Prevention (CAPS)**

<http://www.vpul.upenn.edu/caps/sttop.php>

**Penn Women's Center (PWC)**

(215) 898-8611 and (215) 898-6500

3643 Locust Walk

<http://www.vpul.upenn.edu/pwc/>

**Student Health Service (SHS)**

(215) 746-3535

Suite 100, 3535 Market Street

<http://www.upenn.edu/shs/>

**Lesbian Gay Bisexual Transgender Center**

(215) 898-5044

3907 Spruce Street

<https://www.vpul.upenn.edu/lgbtc/>

**African-American Resource Center**

(215) 898-0104

3643 Locust Walk

<http://www.upenn.edu/aarc/>

**Office of the Ombuds**

(215) 898-8261

113 Duhring Wing, 236 S. 34th Street

<http://www.upenn.edu/ombuds/>

**Office of the University Chaplain**

(215) 898-8456

240 Houston Hall, 3417 Spruce Street

<http://www.upenn.edu/chaplain/>

**Penn Violence Prevention**

(215) 746-2642

3611 Locust Walk

<https://secure.www.upenn.edu/vpul/vpv/gethelp.php>

#### 2. Official Reporting Offices for Sexual Misconduct Complaints

If reports of sexual misconduct are made with or come to the attention of the following offices, they must ensure that appropriate action is taken, including notifying the University's AVP and Title IX Officer:

**Office of Affirmative Action and Equal Opportunity Programs**

(215) 898-6993

Suite 421, Franklin Building

<http://www.upenn.edu/affirm-action/index.html>

**Student Intervention Services, VPUL**

(215) 898-6081

(215) 768-6527 Nights/Weekends 3611 Locust Walk

<https://www.vpul.upenn.edu/intervention.php>

**Office of Student Conduct**

(215) 898-5651

Suite 400, 3440 Market Street

<https://www.osc.upenn.edu/>

**Office of Staff and Labor Relations, Division of Human Resources**

(215) 898-6093

Suite 600, Franklin Building

<https://www.hr.upenn.edu/workplace-issues/staff-labor-relations>

#### F. Intake and Investigative Office for Sexual Misconduct Complaints

The official office for reporting, initiating a formal complaint, and investigation of violations of the Sexual Misconduct Policies, including violations of the Sexual Harassment or Sexual Violence Policies, is the Office of the Associate Vice President for Equity and Title IX Officer. The contact information for that Office is:

**Associate Vice President for Equity and Title IX Officer**

(215) 898-2887

3901 Walnut Street, Suite 320

<https://titleixoffice.upenn.edu/>

## IV. Procedures for Resolving Complaints of Sexual Misconduct Against Faculty

### A. Introduction

The University of Pennsylvania is committed to providing a safe and healthy environment, free of gender-based misconduct, to all members of our community and visitors to our community. As such, sexual assault, sexual violence, relationship violence and stalking will not be tolerated. In order to ensure the creation of a climate where members of the community are able to thrive and achieve their full potential, the University has developed a wide range of policies, educational programs, broad-based resources, support and reporting systems. These procedures supplement these other policies and initiatives, addressing the process by which complaints against a University faculty member for a violation of the Sexual Misconduct Policy (which includes the Sexual Harassment Sexual Violence, Relationship Violence and Stalking Policy (“Sexual Harassment Policy”) and the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings Policy) will be adjudicated and resolved.

### B. Confidentiality

Confidentiality is of critical importance in ensuring that these sensitive matters are handled appropriately. The University has an obligation to respond to violations of its Sexual Misconduct Policy as fairly and expeditiously as possible when a complaint is received. University staff and faculty may share information with others who have a legitimate need to know in order to fairly and effectively address complaints, but the information should be considered confidential and should be protected to the extent possible consistent with legal obligations. Such administrators may include, for example those in, the Office of the Vice Provost for University Life, the Office of the Vice Provost for Faculty, the Office of the Associate Vice President for Equity and Title IX Officer (AVP), the Division of Public Safety, the Senior Vice President for Institutional Affairs and Chief Diversity Officer, the Office of General Counsel, Employee Assistance Program, Counseling and Psychological Services, Student Health Service, and academic advising offices.

### C. Reporting Complaints of Violation of the Sexual Misconduct Policy

#### 1. Office of the Associate Vice President for Equity and Title IX Officer

The Office of the Associate Vice President for Equity and Title IX Officer (AVP) will be responsible for overseeing all complaints made against a University faculty member, instructor, post-doctoral or other trainee, or teaching assistant (“faculty member”) for violations of the Sexual Misconduct Policy. Complaints should be lodged with the AVP who will ensure that complaints are investigated by a trained Investigative Officer (IO), who will select a co-investigator to form the Investigative Team. The Investigative Team will consult with the appropriate Dean, or in any case for which the Dean has an actual or appearance of a conflict of interest or is implicated in the complaint, the Vice Provost for Faculty.

Complaints must either be presented in writing or based on information provided by the complainant or another individual making the report who will then memorialize the allegations in writing and ask the complainant to confirm them. Complainants may include University students, staff, or faculty members, as well as others within the University community, alleging a violation of the Policy by a University faculty member.

#### (a) Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings

If the AVP determines that the complaint involves a possible violation of the Consensual Romantic or Sexual Relationships in the Workplace or Educational Settings Policy and not the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, the complaint will be investigated by an IO.<sup>9</sup> The facts, conclusions, and recommendations reached by the IO will be reported to the Dean of the applicable school who may seek an informal resolution, if appropriate, or initiate the University’s Procedure Governing Sanctions Taken Against Members of the Faculty. (*Faculty Handbook* II.E.16).

#### (b) Sexual Harassment, Sexual Violence, Relationship Violence, and Stalking

If the AVP determines that the complaint involves a possible violation of the Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy, the procedures outlined below in Section D of this policy will apply.

<sup>9</sup> The decision as to whether a complaint involves sexual violence is determined by the AVP.

### 2. Office of the District Attorney and Office for Civil Rights

Complainants may also choose to file a report with the District Attorney, the Office for Civil Rights of the U.S. Department of Education, or other external agencies. The University’s processes and the legal system are independent of one another, and the University has its own interest in, and responsibility for, the enforcement of its Sexual Violence Policy.<sup>10</sup> Therefore, the University will not unilaterally defer its processes pending the outcome of a criminal process, nor will the outcome of any legal process be determinative of the University result. The University will, however, comply with reasonable requests by law enforcement for cooperation, and may suspend its fact-finding process in a sexual misconduct investigation so as not to impede the law enforcement process.

### 3. Support, Counseling and Advice

In making a decision about whether to file a sexual harassment complaint, complainants may seek support, counseling and advice from other offices on campus. A list of these offices is provided in Section E below. Should the complainant determine to proceed with an on-campus complaint investigation and resolution process against a University faculty member, the Office of the AVP will be the single place to initiate the process.<sup>11</sup>

### 4. Timeframe for Submitting a Complaint

The University does not limit the timeframe for filing a sexual misconduct complaint. Reports may be filed at any time, although the University’s ability to investigate or take action may be limited by the passage of time, changes in the employment relationship of the alleged respondent at the time the report is made, or other circumstances.

### 5. Complainant Request for Confidentiality

The University is required by Title IX to weigh the complainant’s request for confidentiality/privacy with the University’s commitment to provide a reasonably safe and nondiscriminatory environment. In situations where a complainant requests confidentiality, the University’s ability to investigate and respond to the allegations may be limited. The AVP will notify the complainant if the University cannot, in unusual cases, maintain the complainant’s confidentiality/privacy. The complainant’s and respondent’s identities will only be revealed to those individuals who need to know their names in order to investigate or adjudicate the complaint or provide interim measures. If the University becomes aware of behavior or a pattern of behavior by one or more respondents, the University will take appropriate action in an attempt to protect the University community.

### D. Investigation and Resolution of Complaints of Sexual Harassment, Sexual Violence, Relationship Violence and Stalking

#### 1. Timely Resolution

The process of resolving complaints, not including any appeal, should be completed, where practicable, within 60 business days of the filing of the written complaint. The appeal should be completed, where practicable, within 30 business days of the filing of the appeal. In the event that a Hearing Panel is convened, the complainant and the respondent will both be provided with a copy of the decision of the Panel and given 10 business days from the date of the transmittal of the Hearing Panel’s decision to file an appeal.

#### 2. Rights and Protections for Complainant and Respondent

(a) The complainant and respondent have the right to a process that is fundamentally fair, and free of bias or prejudice.

(b) The complainant and respondent have the right to be treated with respect, dignity, sensitivity and fairness throughout the entire process. They are both entitled to seek support from the University and to be informed about the process both before the process is initiated and throughout the process as it unfolds.

(c) Both parties have the right to participate in the process, or to refrain from participation.<sup>12</sup> The failure to participate will not be used as evidence against either party, but also will not prevent the process from proceeding

<sup>10</sup> The University recognizes that in the event criminal charges are pending, a respondent may choose not to participate in the process described in these procedures in order to protect his or her Fifth Amendment rights. Such decision will not be used as evidence against any respondent and the Hearing Panel will be instructed not to draw any adverse inference from the failure to participate.

<sup>11</sup> The AVP or the IO will work with other appropriate University offices, including the Vice Provost for University Life and the Vice Provost for Faculty, to determine if interim measures are appropriate.

<sup>12</sup> Please note that declining to respond to questions posed by the other party’s advisor during a hearing, will impact the Panel’s ability to rely upon the information provided by that party.

unless the complainant determines to withdraw the complaint and the University determines to abide by that request.

(d) Both parties may have an advisor, who may be their lawyer, present when being interviewed by the Investigative Team and the Hearing Panel, but the lawyer or other advisor will not be permitted to present statements or seek the production of evidence. The advisor will be permitted to pose questions to the other party or any witnesses subject to determinations of relevance and other appropriate issues by the DHO. Advisors must be a member of the University community, unless the advisor is serving as legal counsel to one of the parties.

(e) Evidence of prior sexual conduct by the complainant or respondent with other partners will not ordinarily be considered in the process, and any evidence of a prior sexual relationship between the parties will not be determinative of the issue of consent.

(f) If there is credible evidence of a pattern of violations of the Sexual Misconduct Policy, evidence that helps to establish such a pattern may be considered by the Hearing Panel.

(g) While the process is underway, appropriate interim measures will be taken to protect the parties. If both the complainant and the respondent are faculty members, the Dean(s) of the school(s) to which the faculty members have appointments—or the Dean(s)' designee(s)—would work with the complainant and respondent, ensuring support is provided to both parties, and implementing interim measures to protect the parties, consistent with principles of fairness. In the event that the complainant is a staff member or a student, the Dean of the School to which the respondent has an appointment—or the Dean's designee—will work with Human Resources (for staff members) and the Vice Provost for University Life (for students) to implement interim measures.

### 3. Preliminary Determination

Upon receiving a complaint, the AVP will make a preliminary determination as to whether the complaint on its face appears to be a sufficient basis to conduct a full investigation. In making this determination, the AVP may interview the complainant and the respondent (after advising the respondent of the allegations in writing) and conduct whatever preliminary investigation the AVP deems necessary to determine if the actions alleged in the complaint would, if true, constitute a violation of the University's Sexual Harassment, Sexual Violence, Relationship Violence, and Stalking Policy and there is a reasonable basis for investigating the charges. If the AVP concludes there is insufficient basis to proceed, the matter will be concluded, and the parties so advised.

### 4. Investigation

If the AVP makes the determination that there is a sufficient basis to proceed, an IO will be assigned to conduct the investigation. The AVP will issue a Statement of Charge Letter, based on the complaint and any preliminary investigation conducted. The Charge Letter will be provided to the complainant and the respondent. The respondent will be provided the opportunity to respond in writing to the Charge, and any response will be shared with the complainant. The Dean of each school to which the respondent faculty member has an appointment will also receive a copy of the Charge Letter.

The IO will lead a thorough and impartial investigation, assisted by one or more co-investigators who may come from the School of the complainant or respondent or from elsewhere in the University (the "Investigative Team"). Co-investigator(s) will be University staff or faculty, or a consultant or attorney appropriately trained to investigate and handle sexual misconduct cases who will be selected for individual cases by the IO. The investigation will include interviews of the complainant and respondent, interviews of witnesses as well as review of documentation, physical evidence and any other relevant evidence.

Prior to interviews, the complainant, the respondent and any relevant witnesses will be informed by the IO that statements they make during the process may be admissible in concurrent or subsequent civil or criminal court proceedings. Accordingly, the parties and witnesses will be informed of their rights as outlined in Section D2 above. The parties will be advised of the seriousness of the proceeding and the expectation that the information they provide is both accurate and complete. Any false or misleading statements may subject the party making such statements to proceedings under the applicable University policy, handbook, code and/or charter. The complainant and respondent may have their advisors<sup>12</sup> and/or outside counsel present for their interviews, but the advisors or outside counsel will not be permitted to participate in the interview other than to provide advice to the person they have accompanied, and they may be excluded from the interview for disruptive behavior.

In conducting the investigation, the Investigative Team may, as appropriate, also consult with other campus officials including but not limited to administrators in the relevant School(s), the Division of Public Safety, the AVP, the Senior Vice President for Institutional Affairs and Chief Diver-

sity Officer, the Vice Provost for Faculty or the Vice Provost for University Life. The Investigative Team may also consult with the Office of General Counsel, which may determine in particular cases to engage outside counsel to assist the University throughout this process. The Investigative Team may engage forensic and other experts, as needed.

### 5. Investigative Report<sup>13</sup>

At the conclusion of the investigation, the Investigative Team will prepare a draft factual investigative report, including assessments of credibility, a recommended finding as to responsibility, and recommended sanctions, if appropriate. In making the responsibility determination, the Investigative Team must be convinced that there is a preponderance of evidence that a violation of the Sexual Misconduct Policy has occurred.

#### (a) Opportunity for Review and Comment

The draft investigative report and related exhibits and evidence will be provided to both the complainant and respondent for review and comment, under strict instructions that they are and at all times remain strictly confidential, and are not to be shared with anyone other than their families and advisors, who must be members of the University community and/or outside counsel, as described above without the expressed consent of the AVP. Sharing of the draft report by either party, their families, advisors or outside counsel with any additional persons is strictly prohibited and anyone with whom the report is shared must be so advised. The complainant and the respondent will be given the opportunity to respond to and comment on the draft investigative report in writing.

#### (b) Final Report

As a result of the response and comments received, the Investigative Team may conduct a further investigation and/or amend the draft report, if the Team determines either action to be warranted. A final investigative report will be prepared, incorporating any changes, and shared with the complainant and the respondent. The complainant and respondent may submit formal objections or comments to the final report, which will become part of the final report of the matter.

### 6. Resolution Without a Hearing

The matter may be resolved at this stage if both parties agree to the recommendations of the Investigative Team with respect to responsibility and, if applicable, sanctions, or if the parties otherwise reach a mutually acceptable resolution. The University, however, will not compel either the complainant or the respondent to engage in face-to-face mediation or to accept the recommendations of the Investigative Team.

### 7. Hearing Panel

If the matter is not resolved at this stage in a mutually acceptable manner, either party may request a hearing before a Hearing Panel (Panel) within 10 business days of transmission of the final report.

#### (a) Panel Membership

The Panel will be comprised of three (3) faculty members and the Designated Hearing Officer (DHO), who will be a non-voting member. The DHO will make all decisions about the organization of the Panel, including decisions regarding the admissibility of evidence, witnesses to appear before the panel, or any additional decisions regarding the administration of the hearing process.<sup>14</sup>

Membership of the Panel, including the DHO, will observe the following guidelines:

i. Members will be selected from a pool of faculty who have agreed to serve for a term of one or more years.

ii. Only Panels that have training in handling complaints involving sexual misconduct will hear sexual misconduct cases.

iii. Faculty appearing on a Panel may not share a professional, personal or academic department affiliation (e.g., have a faculty appointment or be enrolled in a course of study) with either of the parties. Faculty asked to serve must recuse themselves or be dismissed if they have any professional or personal ties to either of the parties or to individuals with whom the parties are closely associated. Faculty with personal knowledge of the alleged incident of sexual misconduct also must recuse themselves or be dismissed.

iv. The University will train members of the pool to fulfill their responsibilities as adjudicators according to the procedures and policies outlined here

<sup>13</sup> The parties will be advised, and acknowledge, that the Investigative Report, Exhibits and Drafts are confidential to be used by them and their families and advisors in connection with these proceedings.

<sup>14</sup> In carrying out these responsibilities, the DHO may consult with the AVP, the Office of General Counsel and other appropriate offices such as the Vice Provost for Faculty and the Senior Vice President for Institutional Affairs and Chief Diversity Officer. University officers thus consulted will respect the confidentiality conditions of the proceedings.

and to ensure compliance with Title IX and other applicable state and federal guidelines. In addition, the Panel will be provided with “just in time” training on adjudicating sexual violence cases, unless the Panel members have recently been trained.

v. No member of the Investigative Team may serve on the Panel; however, any such individual may be interviewed by the Panel regarding the investigation and may assist the DHO as needed in organizational and administrative matters related to the Panel.

vi. The complainant and respondent will be notified of the membership of the Panel in advance of the Hearing. Any challenges for cause against individual Panel members must be made promptly so as not to delay the conduct of the Hearing and will be given serious consideration by the DHO to ensure impartiality of the proceedings.

vii. All proceedings must be kept strictly confidential among the parties, witnesses and members of the Panel. All individuals involved in such hearings must agree to such conditions of confidentiality.

#### **(b) Hearing Procedures**

Hearings must be prompt, fair and impartial, affording the complainant’s allegations and the respondent’s defenses all due consideration and protecting the rights of both parties. The Panel will review the Investigative Team’s final report, including any responses, objections or comments provided by the complainant and/or respondent. The Panel will also carefully review the evidentiary record, including witness statements, documents and physical evidence.

#### **Hearing Panel Interviews**

The Panel will interview separately the IO (and co-investigator(s) if the Panel so chooses), the complainant and the respondent. The Panel will provide the complainant and respondent with 10 days advance notice of the Hearing. If reasonably possible, interviews will be conducted on one day, but if such scheduling would require an unreasonably long day, or if such scheduling would unreasonably delay the proceeding, the Hearing may be scheduled over multiple days.

The Panel may seek additional evidence from the IO and interview key witnesses on whom the IO relied in drawing their conclusions, as well as request additional evidence from the IO to clarify the evidentiary record, provided that it can do so without unreasonably delaying the process. In the event that a new witness comes forward during the Hearing who was not originally interviewed by the IO, or new evidence is discovered after the IO has issued their report, the DHO may allow that witness to be interviewed or admit the evidence to the hearing, but only if the DHO judges the new witness or evidence to be relevant to an accurate and fair determination of the outcome.

i. The Hearing will be held in private. Initial interviews will be conducted by the Panel and each party’s advisor will then have an opportunity to pose questions to the other party and any witnesses. Only the person interviewed (and in the case of the parties, that person’s advisor or outside counsel) will be present during the Panel interview. The complainant or respondent (and their advisor or outside counsel, as applicable) will be able to view interviews from separate rooms, upon request, via closed-circuit television or similar video transmission.

ii. Subject to the protections set forth in Section D2 above, the Panel has wide latitude when questioning the complainant, the respondent and any witnesses in order to determine the accuracy of the report.

iii. The complainant and respondent may propose witnesses and provide specific questions in advance that they believe important to ask of other parties or witnesses. The parties’ advisors also may ask questions of the other party and witnesses during the Hearing subject to the DHO’s determination of relevance or other appropriate reasons. The DHO, in consultation with the Panel, will determine the relevance as well as the appropriateness of witnesses and questions, and may accordingly place restrictions on, include or exclude witnesses or other information.

iv. When the Panel is conducting the interview of the complainant and respondent, each may bring an advisor or outside counsel with them to provide advice and support. The advisor or outside counsel will be permitted to direct relevant questions to the other party or to witnesses. The advisor, complainant or respondent and may be excluded from the interview by the DHO for disruptive behavior.

v. The interviews by the Panel will be recorded (audio only). No observers will be permitted to make any audio or video recordings.

#### **(c) Hearing Panel Decision**

After the Hearing concludes, the Panel will immediately deliberate in private to decide whether, by clear and convincing evidence, the respondent has violated the University’s Sexual Misconduct Policy. Preponderance of the evidence means that the Panel must find that it is more likely than not that the faculty member is responsible for a violation of the Policy. A finding of responsibility requires a majority vote of the members of the Panel.

i. If the respondent is found responsible, the Panel will also recommend an appropriate sanction, by majority vote, based upon the facts of the case and University precedent, with a presumption in favor of the sanction recommended by the Investigative Team.

ii. The Panel will arrive at its conclusion as expeditiously as possible and will promptly advise both the complainant and the respondent in writing of its decision with respect to responsibility and, if applicable, recommended sanctions. In keeping with guidelines for timely resolution as provided in Section D1 above, the written decision will be provided as soon after the conclusion of the proceeding as is possible.

#### **8. Sanctions**

After a final decision has been rendered by the Panel, the matter is presented to the Dean of the School in which the respondent has a primary appointment for procedures related to sanctions, if applicable. The Dean is provided the final investigative report, along with the Panel’s decision and the appellate decision (if any).

(a) If the respondent is a member of the Standing Faculty, the Dean will follow the procedures described in the Faculty Handbook’s section regarding Procedure Governing Sanctions Taken Against Members of the Faculty (Section I.E.16), as appropriate, to determine what, if any, sanction should be imposed against the respondent based on the determination rendered by the Investigative Team, and if applicable, the Panel, and following the Dean’s consultation with the Vice Provost for Faculty.

(b) If the respondent is a member of the Associated Faculty, the Dean will consider the determination rendered by the Investigative Team, as well as the Panel and consult with the Vice Provost for Faculty before implementing an appropriate sanction.

(c) The matter will be referred to the Provost to determine the appropriate sanction in the event that the Dean is the respondent or if referral to the Dean would create an actual or apparent conflict of interest.

#### **Resource Offices**

##### **1. Confidential Resources**

The following is a list of confidential resources that can be contacted for support, counseling and advice. The information shared with these resources generally will be held in confidence, consistent with the University’s obligation to address complaints of sexual violence, unless the person sharing the information gives his or her consent to the disclosure of that information. The commitment to confidentiality does not preclude the sharing of information among responsible University administrators as needed, including to keep members of the University community safe.

##### **Special Services Department, Division of Public Safety**

24-hour Helpline: (215) 898-6600

4040 Chestnut Street

<http://www.publicsafety.upenn.edu/special-services/>

##### **Penn Women’s Center**

(215) 898-8611

3643 Locust Walk

<http://www.vpul.upenn.edu/pwc/>

##### **Lesbian Gay Bisexual Transgender Center**

(215) 898-5044

3907 Spruce Street

<http://www.vpul.upenn.edu/lgbtc/>

##### **African-American Resource Center**

(215) 898-0104

3643 Locust Walk

<http://www.upenn.edu/aarc>

##### **Office of the University Chaplain**

(215) 898-8456

240 Houston Hall, 3417 Spruce Street

<http://www.upenn.edu/chaplain>

##### **Office of the Ombuds**

(215) 898-8261

113 Duhring Wing, 236 S. 34th Street

<http://www.upenn.edu/ombuds/>

##### **Employee Assistance Program, Health Advocate**

(866) 799-2329

<https://www.hr.upenn.edu/PennHR/wellness-worklife/counseling-and-employee-assistance-program>

##### **Penn Violence Prevention**

(215) 746-2642

VPUL, 3611 Locust Walk

<https://secure.www.upenn.edu/vpul/pvp/gethelp.php>

##### **2. Official Reporting Offices for Sexual Misconduct Complaints**

If reports of sexual misconduct are made with or come to the attention of the following offices, they must ensure that appropriate action is taken,

including notifying the University's AVP and Title IX Officer:

**Office of Affirmative Action and Equal Opportunity Programs**

(215) 898-6993

Suite 421, Franklin Building

<http://www.upenn.edu/affirm-action/index.html>

**Student Intervention Services, VPUL**

(215) 898-6081

(215) 768-6527 Nights/Weekends 3611 Locust Walk

<https://www.vpul.upenn.edu/intervention.php>

**Office of Student Conduct**

(215) 898-5651

Suite 400, 3440 Market Street

<https://www.osc.upenn.edu/>

**Office of Staff and Labor Relations, Division of Human Resources**

(215) 898-6093

Suite 600, Franklin Building

<https://www.hr.upenn.edu/workplace-issues/staff-labor-relations>

**3. Investigative Office for all Sexual Misconduct Complaints**

The official office for reporting, initiating a formal complaint, and investigation of violations of the Sexual Misconduct Policies, including violations of the Sexual Harassment or Sexual Violence Policies, is the Office of the Associate Vice President for Equity and Title IX Officer. The contact information for that Office is:

**Associate Vice President for Equity and Title IX Officer**

215-898-2887

3901 Walnut Street, Suite 320

<https://titleixoffice.upenn.edu/>

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## V. Procedures for Resolving Complaints of Sexual Misconduct Against Staff

### A. Introduction

The University of Pennsylvania is committed to providing a safe and healthy environment, free of gender-based misconduct, to all members of our community and visitors to our community. As such, sexual harassment, sexual assault, sexual violence, relationship violence, and stalking will not be tolerated. In order to ensure the creation of a climate where members of the community are able to thrive and achieve their full potential, the University has developed a wide range of policies, educational programs, broad-based resources, support, and reporting systems. These procedures supplement these other policies and initiatives, addressing the process by which complaints against a University staff member for a violation of its Sexual Misconduct Policy (which includes its Sexual Harassment, Sexual Violence, Relationship Violence and Stalking Policy ("Sexual Harassment Policy")) will be investigated and resolved.

### B. Confidentiality

Confidentiality is of critical importance in ensuring that these sensitive matters are handled appropriately. The University has an obligation to respond to violations of its Sexual Misconduct Policy as fairly and expeditiously as possible when a complaint is received. University staff and faculty may share information with others who have a legitimate need to know in order to fairly and effectively address complaints, but the information should be considered confidential and should be protected to the extent possible consistent with legal obligations. Such administrators may include, for example those in, the Office of the Vice Provost for University Life, the Office of the Vice President for Human Resources, the Office of the Associate Vice President and Title IX Officer (AVP), the Division of Public Safety, Senior Vice President for Institutional Affairs and Chief Diversity Officer, the Office of General Counsel, the Employee Assistance Program, Counseling and Psychological Services, Deans, and Vice Presidents of administrative Divisions.

### C. Reporting Complaints of Sexual Misconduct

#### 1. Office of the Associate Vice President and Title IX Officer

The Office of the Associate Vice President and Title IX Officer (AVP) will be responsible for ensuring that all complaints made against a University staff member alleging a violation of the University's Sexual Misconduct Policy (which includes the Sexual Harassment or Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings) are handled appropriately. All AVP responsibilities as described in these procedures will be performed directly by the AVP or by the AVP's designee.

Complaints must either be presented in writing or based upon information provided by the complainant or another individual making the report to the AVP who will then memorialize the allegations in writing and ask the complainant to confirm the allegations. Complaints may be made by University students, staff, or faculty members, as well as others both within the University community, alleging a violation of the Sexual Misconduct Policy by a University staff member.

#### 2. Office of the District Attorney and Office for Civil Rights

Complainants may also choose to file a report with the District Attorney, the Office for Civil Rights of the U.S. Department of Education, or other external agencies. The University's processes and the legal system

work independently of one another, and the University has its own interest in, and responsibility for, the enforcement of its Sexual Harassment Policy.<sup>15</sup> Therefore, the University will not unilaterally defer its processes pending the outcome of a criminal process, nor will the outcome of any legal process be determinative of the University result. The University will, however, comply with reasonable requests by law enforcement for cooperation, and may temporarily suspend its fact-finding process in a sexual assault investigation so as not to impede the law enforcement process.

#### 3. Support, Counseling and Advice

In making a decision about whether to file a complaint, complainants may seek support, counseling, and advice from other offices on campus. A list of these offices is provided in Section III below. Should the complainant determine to proceed with an on-campus complaint investigation and resolution process against a University staff member, the Office of the AVP will be the single place to initiate the process.<sup>16</sup>

#### 4. Timeframe for Submitting a Complaint

The University does not limit the timeframe for filing a report of a violation of the Sexual Misconduct Policy. Reports may be filed at any time, although the University's ability to investigate or take action may be limited by the passage of time, or by changes in the employment relationship of the alleged respondent at the time the report is made.

#### 5. Complainant Request for Confidentiality

The University is required by Title IX to weigh the complainant's request for confidentiality/privacy with the University's commitment to provide a reasonably safe and nondiscriminatory environment. In situations where a complainant requests confidentiality, the University's ability to investigate and respond to the allegations may be limited. The AVP will notify the complainant if the University cannot, in unusual cases, maintain the complainant's confidentiality/privacy. The complainant's and respondent's identities will only be revealed to those individuals who need to know their names in order to investigate, resolve the complaint or provide interim measures. If the University becomes aware of behavior or a pattern of behavior by one or more respondents, the University will take appropriate action in an attempt to protect the University community.

### D. Investigation and Resolution of Complaints

The Office of the Associate Vice President for Equity and Title IX Officer (AVP) is responsible for overseeing the informal or formal resolution of all complaints made against a University staff member for a violation of the University's Sexual Misconduct Policy. Complaints should be lodged with the AVP who will ensure that complaints are investigated

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<sup>15</sup> The University recognizes that should it be proceeding in cases where criminal charges are pending, the respondents may choose not to participate in the process described in these procedures in order to protect their Fifth Amendment rights. Such decision will not be used as evidence against any respondent and the Hearing Panel will be instructed not to draw any adverse inference from the failure to participate.

<sup>16</sup> While the Investigative Officer will be responsible for managing the complaint investigation and resolution process, as described below, the AVP will work with other appropriate University offices, including the Office of Affirmative Action and Equal Opportunity Programs and Division of Human Resources, to determine if interim measures are appropriate before a final resolution is reached.

by a trained Investigative Officer (IO), who will select a co-investigator to form the Investigative Team. The Investigative Team will consult with the Dean of the School or Vice President of the Division in which the respondent works, or the Vice President for Human Resources in any case for which the Dean or Vice President has an actual or the appearance of a conflict of interest or is implicated in the complaint.

Complaints must either be presented in writing or based on information provided by the complainant or another individual making the report who will then memorialize the allegations in writing and ask the complainant to confirm them. Complainants may include University students, staff or faculty member, as well as others both within and outside the University community, alleging a violation of the University's Sexual Misconduct Policy by a University staff member.

### **1. Timely Resolution**

The process of resolving complaints, exclusive of any appeal, should be completed, unless there are special circumstances, within 60 business days of the filing of the written complaint. The appeal should be completed, absent special circumstances, within 30 business days of the filing of the appeal.

The complainant and the respondent will both be provided with a copy of the investigative team's decision and given 10 business days from the date of the transmittal of that decision to file an appeal.

### **2. Rights and Protections for Complainant and Respondent**

(a) The complainant and respondent have the right to a process that is fundamentally fair, and free of bias or prejudice.

(b) The complainant and respondent have the right to be treated with respect, dignity, sensitivity, and fairness throughout the entire process. They are both entitled to seek support from the University and to be informed about the process both before the process is initiated and throughout the process as it unfolds.

(c) Both parties have the right to participate in the process, or to refrain from participation.<sup>17</sup> The failure to participate will not be used as evidence against either party, but also will not prevent the process from proceeding unless the complainant determines to withdraw the complaint and the University decides to abide by that request.

(d) Both parties may have an advisor present when being interviewed by the Investigative Team, but the advisor will not be permitted to present statements, seek the production of evidence, or question any witnesses during the investigative stage of the process. Advisors must be members of the University community or the party's attorney.

(e) Evidence of prior sexual conduct by the complainant or respondent with other partners will not be considered in the process, and any evidence of a prior sexual relationship between the parties will not be determinative of the issue of consent. If there is credible evidence of a pattern of violations of the Sexual Misconduct Policy, evidence that helps to establish such a pattern may be considered.

(f) While the process is underway, appropriate interim measures will be taken to protect the parties. The Office of Staff and Labor Relations in the Division of Human Resources (or another appropriate office), in consultation with the respondent's supervisor, will implement interim measure to protect the parties consistent with principles of fairness. The Office of Staff and Labor Relations in the Division of Human Resources (or other appropriate office) will work with the complainant and respondent to ensure that both parties have access to support and assistance during the process.

### **Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings**

If the AVP determines that the complaint involves a possible violation of the Consensual Romantic and Sexual Relationships in the Workplace and Educational Settings and not the

Sexual Harassment, Sexual Violence Relationship Violence or Stalking Policy, the complaint will be investigated by an IO, working with the appropriate Dean or Vice President, or in the event of an actual or perceived conflict of interest, the Vice President for Human Resources. The facts, conclusions, and recommendations reached by the IO will be reported to the appropriate Vice President or Dean. In the event of a finding of responsibility for a violation of the Sexual Misconduct Policy, appropriate disciplinary action will be taken.

Any disciplinary action taken against a staff person is subject to appeal by either party in writing to the Vice President for Human Resources (or designee) and the Dean of the School or Vice President of the Division

<sup>17</sup> Please note that declining to respond to questions posed by the other party's advisor during a hearing, will impact the Panel's ability to rely upon the information provided by that party.

in which the respondent works, who jointly have exclusive jurisdiction to decide appeals.

i. Appeals should be submitted within 10 business days of transmission of the decision of the Investigative Team. Letters of appeal should specifically state whether the objection is to the judgment of a violation of University policy, the recommended sanction, or both, and explain in detail the grounds for appeal.

ii. The Vice President for Human Resources (or designee) and the Dean or Vice President of the School or Division will review the report of the Investigative Team to ensure that the process was consistent with University policy and that the decision was not arbitrary or capricious. Any supporting evidence, and any other relevant materials may also be reviewed by the Vice President for Human Resources (or designee) and the Dean or Vice President of the relevant School or Division at their discretion.

iii. After considering the appeal, the Vice President for Human Resources (or designee) and the relevant Dean or Vice President (or designee) will promptly notify the parties in writing as to whether the Investigative Team's decision will be upheld or modified. The decision of the relevant Dean or Vice President and the Vice President for Human Resources will be final.

### **Sexual Harassment, Violence, Relationship Violence, and Stalking**

If the AVP determines that the complaint involves a possible violation of the Sexual Harassment, Violence Policy, Relationship Violence and Stalking Policy (Sexual Harassment Policy) the procedures set forth below will apply.

#### **1. Preliminary Determination**

Upon receiving a complaint, the AVP will make a preliminary determination as to whether the complaint falls within the purview of the Sexual Misconduct Policy and whether, on its face, there appears to be a sufficient basis to conduct a full investigation. In making this determination, the AVP may interview the complainant and the respondent (after advising the respondent of the allegations in writing) and conduct whatever preliminary investigation the AVP deems necessary to determine if the actions alleged in the complaint would, if true, constitute a violation of the University's Sexual Harassment Policy) and there is a reasonable basis for investigating the complaint. If the AVP concludes there is insufficient basis to proceed, the matter will be concluded, and the parties so advised.

#### **2. Investigation**

If the AVP makes the determination that there is a sufficient basis to proceed, a Statement of Charge Letter will be issued, based on the complaint and any preliminary investigation conducted. The Charge Letter will be provided to the complainant and the respondent. The respondent will be provided the opportunity to respond in writing to the Charge, and any response will be shared with the complainant. The Dean or Vice President of the Division in which the respondent is employed will also receive a copy of the Charge Letter.

The AVP will appoint an Investigative Officer (IO) to lead a thorough and impartial investigation, assisted by one or more co-investigators who may come from the School or Center of one of the parties or from elsewhere in the University (the "Investigative Team"). The co-investigator(s) will be University staff or faculty members appropriately trained to investigate and handle sexual misconduct cases who will be selected for individual cases by the IO. The investigation will include interviews of the complainant and respondent, interviews of witnesses, and review of documentation, physical evidence, and any other relevant evidence.

Prior to interviews, the complainant, the respondent, and any relevant witnesses will be informed by the IO that statements they make during the process may be admissible in concurrent or subsequent civil or criminal court proceedings and will accordingly also be informed of their rights as outlined in Section B above. The parties will be advised of the seriousness of the proceeding and the expectation that the information they provide is both accurate and complete. Any false or misleading statements may subject the party making such statements to proceedings under the applicable University policy, handbook, code and/or charter. The complainant and respondent may have their advisors<sup>18</sup> and/or outside counsel present for their interviews, but the advisors or outside counsel will not be permitted to participate in the interview other than to provide advice to the person

<sup>18</sup> The University will provide a list of advisors from the Penn community to complainants and respondents. Advisors will be offered training by the University to support both complainants and respondents in this process. The parties need not select an advisor from this list. The parties may select any Penn faculty or staff member to advise them or retain an attorney. The role of the advisor or their attorney, however, will be limited to an advisory role and counsel will not be permitted to have an active role in the proceedings other than directing questions to the other party or to witnesses during a hearing.

they have accompanied, and they may be excluded from the interview for disruptive behavior.

In conducting the investigation, the Investigative Team may, as appropriate, also consult with other campus officials including but not limited to administrators in the relevant Division(s), School(s), Public Safety, the AVP and Title IX Officer, the Senior Vice President for Institutional Affairs and Chief Diversity Officer, or the Vice President for Human Resources. The Investigative Team may also consult with the Office of General Counsel, who may determine in particular cases to engage outside counsel to assist the University throughout this process. The Investigative Team may engage forensic and other experts, as needed.

### **3. Investigative Report**

At the conclusion of the investigation, the Investigative Team will prepare a draft report, including assessments of credibility, a finding as to whether there has been a violation of University policy, and, if applicable, recommended disciplinary action. In making a determination regarding responsibility, the Investigative team will use a “preponderance of the evidence” standard. In other words, to find a staff member responsible for violating the Sexual Harassment Policy or Sexual Violence Policy, the Investigative Team must be convinced that it is more likely than not that a violation of the Sexual Misconduct Policy has occurred.

#### **(a) Opportunity for Review and Comment**

The draft investigative report and related exhibits and evidence will be provided to both the complainant and respondent for review and comment, under strict instructions that they are and at all times remain strictly confidential, and are not to be shared with anyone other than their families and advisors, who must be members of the University community and/or outside counsel, as described above without the expressed consent of the AVP. Sharing of the draft report by either party, their families, advisors or outside counsel with any additional persons is strictly prohibited and anyone with whom the report is shared must be so advised. The complainant and the respondent will be given the opportunity to respond to and comment on the draft investigative report in writing.

#### **(b) Final Report**

As a result of the response and comments received, the Investigative Team may conduct a further investigation and/or amend the draft report, if the Team determines either action to be warranted. A final investigative report will be prepared, incorporating any changes, and shared with the complainant and the respondent. The complainant and respondent may submit formal objections or comments to the final report, which will be shared with the other party and become part of the final report of the matter.

### **4. Resolution Without a Hearing**

The matter may be resolved at this stage if both parties agree to the recommendations of the Investigative Team with respect to responsibility and, if applicable, sanctions, or if the parties otherwise reach a mutually acceptable resolution. The University, however, will not compel either the complainant or the respondent to engage in face-to-face mediation or to accept the recommendations of the Investigative Team.

### **5. Hearing Panel**

If the matter is not resolved at this stage in a mutually acceptable manner, either party may request a hearing before a Hearing Panel (Panel) within 10 business days of transmission of the final report.

#### **(a) Panel Membership**

The Panel will be comprised of three (3) faculty members and the Designated Hearing Officer (DHO), who will be a non-voting member. The DHO will make all decisions about the organization of the Panel, including decisions regarding the admissibility of evidence, witnesses to appear before the panel, or any additional decisions regarding the administration of the hearing process.<sup>19</sup> Members of the Panel, including the DHO, will observe the following guidelines:

- i. Members will be selected from a pool of faculty who have agreed to serve for a term of one or more years.
- ii. Only Panels that have training in handling complaints involving sexual misconduct will hear sexual misconduct cases.
- iii. Faculty appearing on a Panel may not share an academic department affiliation (e.g., has a faculty appointment or is enrolled in a course of study) with either of the parties, nor may any faculty member serve on the Panel who

<sup>19</sup> In carrying out these responsibilities, the DHO may consult with the AVP, the Office of General Counsel and other appropriate offices such as the Vice Provost for Faculty and the Senior Vice President for Institutional Affairs and Chief Diversity Officer. University officers thus consulted will respect the confidentiality conditions of the proceedings.

has a professional, or personal relationship with either of the parties. Faculty asked to serve must recuse themselves or be dismissed if they have any personal or professional ties to either of the parties or to individuals with whom the parties are closely associated. Faculty with personal knowledge of the alleged incident of sexual misconduct also must recuse themselves or be dismissed.

iv. The University will train members of the pool to fulfill their responsibilities as adjudicators according to the procedures and policies outlined here and to ensure compliance with Title IX and other applicable state and federal guidelines. In addition, the Panel will be provided with “just in time” training on adjudicating sexual harassment cases, unless the Panel members have recently been trained.

v. No member of the Investigative Team may serve on the Panel; however, any such individual may be interviewed by the Panel regarding the investigation and may assist the DHO as needed in organizational and administrative matters related to the Panel.

vi. The complainant and respondent will be notified of the membership of the Panel in advance of the Hearing. Any challenges for cause against individual Panel members must be made promptly to the DHO so as not to delay the conduct of the Hearing. The DHO will give serious consideration to any challenges made to ensure impartiality of the proceedings.

vii. All proceedings must be kept strictly confidential among the parties, witnesses and members of the Panel. All individuals involved in such hearings must agree to such conditions of confidentiality.

#### **(b) Hearing Procedures**

Hearings must be prompt, fair and impartial, affording the complainant’s allegations and the respondent’s defenses all due consideration and protecting the rights of both parties. The Panel will review the Investigative Team’s final report, including any responses, objections or comments provided by the parties. The Panel will also carefully review the evidentiary record, including witness statements, documents and physical evidence.

#### **Hearing Panel Interviews**

The Panel will interview separately the IO (and co-investigator(s) if the Panel so chooses), the complainant and the respondent. The Panel will provide the complainant and respondent with ten days advance notice of the Hearing. If reasonably possible, interviews will be conducted on one day, but if such scheduling would require an unreasonably long day, or if such scheduling would unreasonably delay the proceeding, the Hearing may be scheduled over multiple days.

The Panel may seek additional evidence from the Investigative Team and interview key witnesses on whom the Investigative Team relied in drawing their conclusions, as well as request additional evidence from the IO to clarify the evidentiary record, provided that it can do so without unreasonably delaying the process. In the event that a new witness comes forward during the Hearing who was not originally interviewed by the Investigative Team, or new evidence is discovered after the Investigative Team has issued their report, the DHO may allow that witness to be interviewed or admit the evidence to the hearing, but only if the DHO judges the new witness or evidence to be relevant to an accurate and fair determination of the outcome.

i. The Hearing will be held in private. The Panel will first conduct interviews with only the person being interviewed (and in the case of the parties, that person’s advisor or outside counsel) present. The complainant or respondent (and their advisor or outside counsel, as applicable) will be able to view interviews from separate rooms, upon request, via closed-circuit television or similar video transmission.

ii. Subject to the protections set forth in Section D2 above, the Panel has wide latitude when questioning the complainant, the respondent and any witnesses in order to determine the accuracy of the report.

iii. The complainant and respondent may propose witnesses and provide specific questions in advance that they believe important to ask of other parties or witnesses. The parties’ advisors may also interview the other party and witnesses called by the Panel. The DHO, in consultation with the Panel, will determine the relevance as well as the appropriateness of witnesses and questions, and may accordingly place restrictions on, include or exclude witnesses or other information.

iv. When the Panel is conducting the interview of the complainant and respondent, each may bring an advisor or outside counsel with them to provide advice and support and may be excluded from the interview by the DHO for disruptive behavior.

v. The interviews by the Panel will be recorded (audio only). No observers will be permitted to make any audio or video recordings.

#### **(c) Hearing Panel Decision**

After the Hearing concludes, the Panel will immediately deliberate in private to decide whether, by a preponderance of the evidence, the respondent has violated the University’s Sexual Harassment Policy. Preponderance of the evidence means that the Panel must find that it is more likely than not that the staff member is responsible for a violation of the Poli-



cy. A finding of responsibility requires a majority vote of the members of the Panel.

i. If the respondent is found responsible, the Panel will also recommend an appropriate sanction, by majority vote, based upon the facts of the case and University precedent, with a presumption in favor of the sanction recommended by the IO.

ii. The Panel will arrive at its conclusion as expeditiously as possible and will promptly advise both the complainant and the respondent in writing of its decision with respect to responsibility and, if applicable, recommended sanctions. In keeping with guidelines for timely resolution as provided in Section A above, the written decision will be provided as soon after the conclusion of the proceeding as is possible.

### E. Appeals

Either party may appeal the decision of the Hearing Panel by submitting a written request within 10 business days of transmission of the decision of the Hearing Panel. Letters of appeal should specifically state whether the objection is to the judgment of a violation of University policy, the recommended sanction, or both, and explain in detail the grounds for appeal. The request for an appeal will be shared with the other party who will have the opportunity to respond or to direct comments to the DAO within 10 business days. Any such response or comments will be shared with the other party.

1. The Vice President for Human Resources (or designee) and the Dean or Vice President of the School or Division will review the report of the Investigative Team to ensure that the process was consistent with University policy and that the decision was not arbitrary or capricious. Any supporting evidence, and any other relevant materials may also be reviewed by the Vice President for Human Resources (or designee) and the Dean or Vice President (or designee) of the relevant School or Division at their discretion. After considering the appeal, the Vice President for Human Resources (or designee) and the relevant Dean or Vice President (or designee) will promptly notify the parties in writing as to whether the Investigative Team's decision will be upheld or modified.

### F. Resource Offices

#### 1. Confidential Resources

The following is a list of confidential resources that may be contacted for support, counseling, and advice. The information shared with these resources generally will be held in confidence, consistent with the University's obligation to address complaints of sexual violence, unless the person sharing the information gives his or her consent to the disclosure of that information. The commitment to confidentiality does not preclude the sharing of information among responsible University administrators as needed, including to keep members of the University community safe.

#### **Special Services Department, Division of Public Safety**

24-hour Helpline: (215) 898-6600

4040 Chestnut Street

<http://www.publicsafety.upenn.edu/special-services/>

#### **Penn Women's Center**

(215) 898-8611

3643 Locust Walk

<http://www.vpul.upenn.edu/pwc/>

#### **Lesbian Gay Bisexual Transgender Center**

(215) 898-5044

3907 Spruce Street

<https://www.vpul.upenn.edu/lgbtc/>

#### **African-American Resource Center**

(215) 898-0104

3643 Locust Walk

<http://www.upenn.edu/aarc/>

#### **Office of the University Chaplain**

(215) 898-8456

240 Houston Hall, 3417 Spruce Street

<http://www.upenn.edu/chaplain/>

#### **Office of the Ombuds**

(215) 898-8261

113 Duhring Wing, 236 S. 34th Street

<http://www.upenn.edu/ombuds/>

#### **Employee Assistance Program, Health Advocate**

(866) 799-2329

<https://www.hr.upenn.edu/PennHR/wellness-worklife/counseling-and-employee-assistance-program>

#### **2. Official Reporting Offices for Complaints of Sexual Misconduct**

If reports of sexual misconduct are made with or come to the attention of the following offices, they must ensure that appropriate action is taken, including notifying the University's AVP and Title IX Officer:

#### **Office of Affirmative Action and Equal Opportunity Programs**

Suite 421, Franklin Building

(215) 898-6993

<http://www.upenn.edu/affirm-action/index.html>

#### **Office of Student Conduct**

Suite 400, 3440 Market Street

(215) 898-5651

<https://www.osc.upenn.edu/>

#### **Office of Staff and Labor Relations, Division of Human Resources**

Suite 600, Franklin Building

(215) 898-6093

<https://www.hr.upenn.edu/workplace-issues/staff-labor-relations>

#### **3. Investigative Office for Sexual Misconduct Complaints**

The official office for reporting, initiating a formal complaint, and investigation of violations of the Sexual Misconduct Policies, including violations of the Sexual Harassment Policy, is the Office of the Associate Vice President for Equity and Title IX Officer. The contact information for that Office is:

#### **Associate Vice President for Equity and Title IX Officer**

3901 Walnut Street, Suite 320

(215) 898-2887

<https://titleixoffice.upenn.edu/>

- **Prevention and Education**

For over 40 years, the University of Pennsylvania has proactively addressed sexual harassment, rape, sexual violence, relationship violence (dating violence and domestic violence), and stalking by providing ongoing outreach, education, and support through University-wide collaborations. Penn policies and protocols include extensive information for students, faculty, staff and visitors regarding campus and community resources available to provide counseling and support and/or to investigate complaints. University policies on Sexual Harassment (<http://www.upenn.edu/almanac/volumes/v60/n06/policy.html>), the Sexual Violence, Relationship Violence and Stalking Policy ([www.upenn.edu/almanac/volumes/v61/n01/sexualviolencepolicy.html](http://www.upenn.edu/almanac/volumes/v61/n01/sexualviolencepolicy.html)), and the Code of Student Conduct (<https://provost.upenn.edu/policies/pennbook/2013/02/15/code-of-student-conduct>) include important definitions (including sexual assault, relationship violence, stalking, and consent) and prohibit retaliation. Information regarding policies, procedures, and educational programs is available on the Penn Violence Prevention website, discussed more fully below.

- **Programs for Faculty and Staff**

Special Services collaborates with the Director of Sexual Violence Prevention and Education, the Penn Women’s Center (PWC), the Title IX Coordinator, and other campus and community partners to conduct training programs for employees who interact with students, including but not limited to University police officers, coaches, student affairs staff in the Division of University Life and Penn’s 12 schools, and the Chaplain’s Office. This includes a 15-hour Anti-Violence Advocate (AVA) training that is offered annually to faculty/staff members. AVA educates participants on how to recognize and respond to students experiences with interpersonal violence, and broadens the campus network of support. In addition, customized workshops and educational programs are offered by request to program coordinators and other key staff members who aid in supporting Penn’s commitments to providing a safe and welcoming environment. The Sexual Violence, Relationship Violence and Stalking Policy was published in *Almanac*, Penn’s journal of record, in May, July and September of 2014 along with the University’s Sexual Harassment Policy. Links to access both policies digitally are distributed during New Staff Orientation sessions.

- **Programs for Students**

Information about policies, resources, and support is disseminated to students before they arrive on campus through the online Penn Alcohol Module (a new program will be provided beginning in 2015). Freshmen are required to attend a mandatory program during New Student Orientation called “Speak About It” that discusses issues of consent, boundaries, and healthy relationships. A new online program has also been developed for graduate and professional students on sexual violence that provides information about campus resources for support and addressing complaints.

All Penn students have access to a yearlong educational media campaign, sponsored by the Penn Women’s Center, Call It What It Is ([http://www.vpul.upenn.edu/pwc/files/PVP\\_IPV\\_Guide\\_Booklet\\_Spread.pdf](http://www.vpul.upenn.edu/pwc/files/PVP_IPV_Guide_Booklet_Spread.pdf)), to raise awareness about different forms of violence and support options.

In 2014 a new office was established to oversee the University’s efforts to educate students about interpersonal violence. The Director of Sexual Violence Prevention and Education manages Penn Violence Prevention (PVP), a collaborative program that aims to engage the Penn community in the prevention of sexual violence, relationship violence, and stalking on campus. The goal of PVP is to provide preventative education focused on building healthy relationships, understanding consent, reaching out to friends in need, and being an active bystander.

Penn Violence Prevention programs, in collaboration with the Penn Women’s Center and Special Services, include:

- Hosting trainings and workshops throughout the academic year for teaching assistants, graduate and resident assistants, and staff in the Office of Fraternity and Sorority Life that cover a wide range of topics related to interpersonal violence.
- Facilitating the Student Anti-Violence Advocates (SAVA) training designed to help students recognize and respond to interpersonal violence as bystanders, responders and potential victims.
- Advising student groups 1 in 4 and ASAP (Abuse and Sexual Assault Prevention) who present peer education workshops and sponsor awareness raising events across campus such as Penn’s annual Take Back the Night program.
- Assisting with the presentation of the educational production *The Vagina Monologues*.
- Managing the Penn Violence Prevention website (launched Spring 2015) which provides a comprehensive overview of support and education.
- Coordinating the Penn Violence Prevention Committee comprised of over 50 staff and faculty who meet bi-annually to discuss outreach and prevention efforts.
- Coordinating the Sexual Assault Response Team comprised of the core offices responsible for providing immediate support for student victims of interpersonal violence.

For further information and suggestions on how to help, how to recognize warning signs, or obtaining help for sexual violence, dating violence, domestic violence and stalking please refer to “A guide to sexual violence, dating violence and stalking” at <https://secure.www.upenn.edu/vpul/vvp/definitionsandpolicies>

- **Campus Sex Crime Prevention: California Sex Offenders Information (Megan’s Law)**

The Campus Sex Crimes Prevention Act, a federal law, requires institutions of higher education to advise the campus community where information concerning registered sex offenders may be obtained. California’s Megan’s Law makes available to adults and organizations information on “serious” and “high risk” sex offenders in their local community. The information on registered sex offenders includes: name and known aliases; age and sex; physical description, including scars, marks and tattoos; photograph (if available); crimes resulting in registration; county of residence; and sip code (based on last registration).

This information can be accessed at free public viewing stations which are located at certain law enforcement agencies. For listing of viewing locations please contact the San Francisco Police Department at (415) 558-5500. You may also check to determine if a particular sex offender is a “high risk” or “serious” sex offender by calling the California Sex Offender Information telephone service at 1 (900) 448-3000. **Note:** There is a \$10.00 fee per call. Additional information is also available on line at <http://caag.state.ca.us/megan/>

- **Weapons Policy**

### **Possession of Dangerous Articles**

Irrespective of any license or authority, University of Pennsylvania faculty, students, staff, whether working or not, and visitors and members of the University community, may not possess or use air rifles, pistols, firearms, weapons, ammunition, gunpowder, fireworks, explosives, gasoline and other dangerous articles and substances in University buildings or on University property. Normal laboratory materials are excluded from this policy when used in a laboratory setting.

Possession and distribution of items mentioned above may be governed by specific federal, state and local regulations.

An individual who violates this policy should be reported to the University of Pennsylvania Police Department or San, Francisco Police Department immediately. Violators of this policy may be subject to disciplinary action under University policy and/or civil or criminal action. The Policy can be found at:

Students: Pennbook Code of Conduct Policy Manual: <http://provost.upenn.edu/policies/pennbook/2013/02/15/code-of-student-conduct>.

Staff and Faculty: Human Resources Policy Manual <http://www.hr.upenn.edu/myhr/resources/policy/performance/dangerousarticles> and the Faculty Handbook <http://provost.upenn.edu/policies/faculty-handbook>.

### **University of Pennsylvania Police Officers**

Sworn officers employed by the University of Pennsylvania Police Department (main campus in Philadelphia) may be given authorization to carry, keep and handle pistols, firearms and ammunition. Firearms and ammunition are prohibited at *Wharton | San Francisco*.

### **Other University Employees**

Specific classifications of employees may be required to utilize dangerous article or hazardous materials on campus to carry out their job duties. Each school or department is responsible for monitoring the use of dangerous articles or hazardous materials in its areas.

- **Alcohol and Drugs Policy**

Federal law requires that the University of Pennsylvania notify all faculty, staff, and students of certain information pertaining to unlawful possession, use, or distribution of illicit drugs and alcohol on its property or as part of its activity. The following information complies with the notification requirements of the Drug-Free Schools and Communities Act and its implementing regulations.

The University of Pennsylvania and its programs and policies, regarding the possession, sale and consumption of alcoholic beverages, encourages all within the campus community to make safe, responsible decisions about alcohol that are consistent with existing state and federal law. The possession or consumption of alcoholic beverages on campus by persons under the age of 21 is strictly prohibited by Penn and by the laws of California. Consistent with its educational mission, Penn provides programs that promote awareness of the physical, psychological, social and behavioral effects of alcohol consumption and drug use.

The use, sale or possession of narcotics and dangerous drugs is illegal and is strictly prohibited on campus.

Employees are required to adhere to the University’s Drug-Free Workplace Policy, which can be found at: <https://www.hr.upenn.edu/myhr/resources/policy/performance/drugfreeworkplace> and its Alcohol and Drug Policy, which can be found at: <http://provost.upenn.edu/policies/pennbook/2013/02/13/alcohol-drug-policy> which strictly prohibit the unlawful manufacture, distribution, dispensation, sale, possession or use of drugs by its employees in the workplace. Those who violate these policies may be subject to disciplinary procedures or may be required to participate in alcohol or other drug rehabilitation programs.

## **Medical Attention**

Medical attention is warranted whenever there is serious injury or illness related to alcohol consumption and/or drug use. The University Alcohol and Drug Policy Section II, paragraph A3, states:

“In cases of intoxication and/or alcohol poisoning, the primary concern is the health and safety of the individual(s) involved. Individuals are strongly encouraged to call for medical assistance [dial 9-1-1] for themselves or for a friend/acquaintance who is dangerously intoxicated. No student seeking medical treatment for an alcohol or other drug-related overdose will be subject to University discipline for the sole violation of using or possessing alcohol or drugs. This policy shall extend to any other student seeking help for the intoxicated student.”

In addition to medical attention, students, faculty and staff may benefit from professional counseling. Faculty/staff members seeking confidential counseling for alcohol or drug use should contact the Employee Assistance Program (EAP) by calling 1 (888) 321-4433 to speak with a Penn Behavioral Health professional.

Students seeking confidential counseling for alcohol or drug use should contact the University’s Counseling and Psychological Services (CAPS) office at (215) 898-7021 to make an appointment. These services adhere to all applicable laws governing the confidentiality of patient information.

## **Questions Regarding Alcohol and Drugs**

Students who have questions or concerns about alcohol or other drugs are encouraged to use the medical and counseling resources provided by the University of Pennsylvania. The University provides brief intervention and educational services to students through the Office of Alcohol and Other Drug Program Initiatives, (215) 573-3525. Any student can make a confidential appointment to talk about their concerns regarding alcohol, drugs and subsequent consequences.

In addition, all incoming undergraduate students are required to participate in a 60-minute online alcohol and violence education module. Information about this module can be provided by the Office of Alcohol and Other Drug Program Initiatives, (215) 573-3525.

The Alcohol & Drug Policy is stated in the *PennBook*, which is available online at <http://provost.upenn.edu/policies/pennbook/2013/02/14/alcohol-drug-policy>

## **• Disciplinary Policies**

Any student who fails to comply with University policies or local, state or federal laws may be subject to discipline under the University Code of Student Conduct. Sanctions can include, but are not limited to warning, reprimand, disciplinary probation, suspension without separation, suspension, and expulsion. If a student’s presence on campus is considered a threat to order, health or safety, the Provost or his or her designee may impose a mandatory leave of absence or conditions on the student’s attendance.

Generally, prospective students are asked about previous criminal records. Employees are also required to disclose any and all convictions for a felony, crime of violence, dishonesty or crime against property or involving the threat of violence. A criminal record, if relevant to the position in question, is a factor considered in the employment process.

The University’s student disciplinary procedures are described in the *PennBook*, which is available online at <http://provost.upenn.edu/policies/pennbook/2013/02/15/charter-of-the-university-of-pennsylvania-student-disciplinary-system>

## **• Missing Persons**

In the event that a student, faculty or staff member is reported as missing, the University of Pennsylvania Police Department follows specific steps, described below, to investigate that person’s location. For the University of Pennsylvania’s full Missing Person policy through the Vice Provost for University Life (VPUL) consult the *PennBook* at <http://provost.upenn.edu/policies/pennbook/2013/02/15/missing-students-notification-policy>

The University of Pennsylvania strongly recommends all students to register confidential contact information in the event that a student over the age of 18 years is determined missing for a period of more than 24 hours. To register a contact person on Penn InTouch please follow the instructions below:

1. Start at the Penn homepage at: [www.upenn.edu](http://www.upenn.edu)
2. On the center top of the screen, click on the link for “Current Students” which will take you to the Penn Portal.
3. Click on the tab for Penn InTouch, which is located in the center along the top of the Portal page. It will prompt you for your login information.
4. Log into the Penn Portal using your PennKey; this will take you to your Penn InTouch homepage.
5. Once here, on the left column above your photo select the link “Profile, privacy & emergency” which will display the link for Emergency Contact.
6. Clicking this link will take you to the Emergency Contact page where you will see two tabs: “Student emergency contact” and “Emergency or Missing Person Contact.”

7. Choose the tab titled “Emergency or Missing Person Contact” to fill in emergency contact information, which is optional and used only to contact the person you list if you are reported missing.

This information will be kept confidential and will be accessible only to authorized campus and law enforcement officials.

### **Reporting Missing Persons**

The University of Pennsylvania Police Department thoroughly investigates all persons including students reported as missing whether they reside on or off-campus. To report a missing person at Wharton | San Francisco contact the San Francisco Police Department by dialing 9-1-1. You also can report a missing person in person at the nearest San Francisco Police Department station house, which is staffed with professional law enforcement personnel, 24/7.

If the missing person is a student, Public Safety will follow these procedures:

- The PennComm Police Supervisor, upon confirmation that a student is missing and cannot be located, shall notify the Office of the Vice Provost for University Life.

- If the missing student resides in on-campus housing, the PennComm Police Supervisor will notify the Resident Advisor (RA) or the House Dean for the area in which the student is housed. The RA should be directed to contact neighbors and friends in the immediate vicinity of the student’s room and report any findings to UPPD.

- If the missing student residing on-campus has been missing for more than 24 hours, UPPD will notify the student’s designated emergency contact, which is maintained in the University Management Information Services (UMIS) database.

- If the student is under 18 years old, the UPPD will immediately notify a custodial parent or legal guardian and the missing student will be entered into the National Crime Information Center by the UPPD Detective Unit.

- If a student over 18 years old has not designated an emergency contact, the law enforcement agency where the student’s primary residence is located will be notified. All notifications as mentioned in this section will be made by the Director of Special Services or his/her designee.

- If the student lives at a fraternity or sorority, the PennComm Police Supervisor will contact the Office of Fraternity and Sorority Affairs for assistance in obtaining information about the person’s possible whereabouts.

- For international students, the PennComm Police Supervisor will contact the Office of International Programs for assistance.

- The PennComm Police Supervisor will also check hospital admissions and the Philadelphia Police Department for further information regarding the missing person. Further, the PennComm Police Supervisor will also contact Counseling and Psychological Services (CAPS) in the event that the student has been receiving counseling, as well as Student Health Service and Outpatient Emergency Rooms in area hospitals.

- If the student lives off-campus, the PennComm Police Supervisor will contact the Director of Off-Campus Living, who will contact the landlord of the property to obtain the names of neighbors or fellow residents, assuming this information is not already known. The landlord shall be asked to accompany UPPD officers to the apartment of the missing student.

- If the student has not been located within a reasonable amount of time, the Office of the Vice Provost for University Life (VPUL) may contact the student’s parents or others for additional assistance.

When preparing an incident report with the San Francisco Police Department, please provide the following information:

- Results of inquiries made to other departments
- Why the reportee believes the person is missing
- Circumstances surrounding the person’s disappearance
- A recent photograph of the person missing.
- Physical description e.g., age, height, weight, eye color, hair color and length, scars, tattoos, physical impairments
- Any identifying numbers e.g., driver license, social security
- Verification of personal information through DMV, personal papers, or school records
- Whether dental or skeletal x-rays of the missing person are available and the name, address and telephone number of the doctor or dentist
- Description of clothing and jewelry
- Psychological or physical impairments
- Possible destination and places frequented

- **Student Residences**

*Wharton | San Francisco* does not have any on campus student residence halls.

- **Crime Prevention Education and Awareness**

The staff at *Wharton | San Francisco* offer programs designed to inform students and employees about campus security procedures and practices. A common theme of all awareness and crime prevention programs is to encourage students and employees to be responsible for their own safety and for the safety of others on campus. Crime Prevention Programs on personal safety and security are sponsored throughout the year by Bernadette Birt and Brandon Lodriguss at new student orientation in the Fall and Spring.

Topics include personal safety and crime prevention, sexual assault awareness, alcohol and drug awareness, self-defense, and fire safety and prevention. Crime Prevention and personal safety workshops are offered at least two times a semester (during fall and spring), and presentations frequently involve experts from public and private organizations. Additionally, new employee orientation includes the distribution of crime prevention and fire safety materials to all new employees.

- **The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The Clery Act)**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The Clery Act **20 U.S.C. § 1092(f)**) requires Penn to provide students and employees with information on its security policies and procedures and specific statistics for certain criminal incidents, arrests and disciplinary referrals and to make the information and statistics available to prospective students and employees upon request. This information is available by calling the Division of Public Safety Special Services Department at (215) 898-4481 or online at [www.oupublicsafety.upenn.edu/clery](http://www.oupublicsafety.upenn.edu/clery). **To obtain a copy of the Clery Crime Statistics and Campus Security Policies for *Wharton | San Francisco* contact Brandon Lodriguss at 415-267-6356 or download a copy from: <http://www.publicsafety.upenn.edu/clery/annual-security-fire-safety-report> . This URL connects to the Division of Public Safety Main Campus Clery web page. Look for the PDF file titled **2017 Annual Security and Fire Safety Report for *Wharton | San Francisco*****

The Division of Public Safety maintains close relationships with all police departments where the University of Pennsylvania owns or controls property. Crimes reported to local police departments that involve University property are brought to the attention of DPS. In addition to collecting Clery crime statistics from local police departments, all reports of crime incidents made directly to DPS through Penn Police Officers, the PennComm Dispatch Center, Allied Barton Security, as well as all incidents reported to Campus Security Authorities are entered into an integrated computer-aided dispatch/records management system.. All entries are recorded in the system in accordance with crime definitions outlined in the FBI Uniform Crime Reporting handbook. Incidents involving sex offenses are entered in accordance with the FBI National Incident Based Reporting System.

To validate that all reports are classified according to the proper crime category, a police supervisor reviews every police report and all reports received from Campus Security Authorities. Personnel assigned to the Records Unit and Police Patrol Commanders periodically audit reports to ensure that information is being collected and entered properly according to crime classifications. On a regular basis, personnel contacts the San Francisco Police Department to determine if any crimes have been reported to the local police that occurred on property leased by Penn at *Wharton | San Francisco*. Additionally, DPS contacts the San Francisco Police Department on an annual basis to ensure that all crimes reported to the local police that occur within the *Wharton | San Francisco* area are accounted for in crime statistics maintained by the staff at *Wharton | San Francisco*.

Statistics reported for subcategories on liquor, drug laws, and weapon offenses represent the number of people arrested or referred to campus judicial authorities.

It is important to note that the crime classifications for which colleges and universities must provide statistics differ under state and federal law. Statistics for certain crime classifications might appear to be different. For example, the federal statistics for motor vehicle theft differ from the state statistics for the same category because the federal classification includes attempted motor vehicle thefts, while state law requires institutions to separately report attempted motor vehicle thefts.

- **Definitions of Crimes Reportable Under The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as Amended by the Higher Education Opportunity Act & the Violence Against Women Act**

### **Criminal Homicide**

**Murder:** The willful (non-negligent) killing of one human being by another.

#### **Manslaughter**

**Non-negligent Manslaughter [Murder]:** The willful (non-negligent) killing of one human being by another.

**Manslaughter by Negligence [Criminal Homicide]:** The killing of another person through gross negligence.

## Sex Offenses

**Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration of a sex organ of another person, without the consent of the victim.

**Fondling:** The touching of the private body parts of another for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

**Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory rape:** Sexual intercourse with a person who is under the statutory age of consent.

In California, it is illegal for an adult (someone 18 or older) to have sex with a minor (someone younger than 18), even if the sex is consensual.

**Robbery:** The taking or attempting to take anything from the care, custody, or control of a person or persons by force, or threat of force, or violence and/or by putting the victim in fear.

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of attack is usually assault accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury results from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

**Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. (Classify as a motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)

**Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Domestic Violence:** a felony or misdemeanor crime of violence committed a) by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under domestic or family violence laws of the jurisdiction in which the crime of violence occurred; and/or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. 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. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

**Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

**Hate Crimes:** Includes all of the crimes listed above, where the law requires the release of statistics by category of prejudice where the victim was intentionally selected because of the perpetrator's bias against the victim based on one of the Categories of Prejudice listed below, plus the following crimes:

**A. Larceny Theft:** The unlawful taking, carrying, leading, or riding away of property from the possession, or constructive possession, of another.

**B. Intimidation:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**C. Destruction/Damage/Vandalism of Property:** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

**D. Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**Categories of Prejudice under Hate Crimes are as follows:**

**A. Race**—A preformed negative opinion or attitude toward a group of persons who possess common physical characteristics genetically transmitted by descent and heredity that distinguish them as a distinct division of humankind.

**B. Gender**—A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

**C. Religion**—A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being.

**D. Sexual Orientation**—A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation — a person's physical, romantic and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.

**E. Ethnicity:** A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture, (often including a shared religion) and/or ideology that stresses common ancestry.

**F. National Origin:** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth.

**G. Disability**—A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age, or illness.

**H. Gender Identity**—A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity.

**Weapon Law Violations:** The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.

**Drug Abuse Violations:** Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine);



marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

**Liquor Law Violations:** The violation of laws or ordinances prohibiting: the manufacture, sale, transportation, furnishing, or possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Public Drunkenness and Driving Under the Influence are not included in this definition.)

*\* Referrals for Disciplinary Actions by Student Conduct must be reported to the Penn Police for the following: Illegal Weapons Possession; Violations of Drug Laws; Violations of Liquor Laws*

- **Campus Crime Statistics for the University of Pennsylvania Wharton | San Francisco**

The law requires statistics for an expanded area beyond the campus and it requires these statistics to be shown in specific geographic categories. (Note that incidents shown in the On-Campus Residential category are also included in the statistics shown in the Campus\* category.) The following statistics are provided in compliance with the specific time periods, crime classifications, geographic categories and arrest data mandated by federal law. Note: These statistics reflect incidents reported to have occurred on Penn leased property at Wharton | San Francisco.

*\*The Clery Act defines **Campus** as “any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and property within the same reasonably contiguous geographic area of the institution and is owned by the institution but controlled by another person, is used by students, and supports the institutional purposes, such as a food or other retail vendor.” **On-Campus Residential** is a sub-category of Campus showing the number of on-campus incidents that occur “in dormitories or other residential facilities for students on campus.” The law defines **Non-Campus Building or Property** as “any building or property owned or controlled by a student organization recognized by the institution; and any building or property, other than a branch campus, owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution’s educational purposes, is used by students, and is not within the same reasonable contiguous geographic area of the institution.” It defines **Public Property** as “all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution’s educational purposes.”*



- **Daily Crime Log**

*Wharton | San Francisco* maintains a Daily Crime Log of all incidents reported to the staff at *Wharton | San Francisco* and crime information collected by the San Francisco Police Department. This includes all crimes, fire-related incidents and other serious incidents that occur during the times that *Wharton | San Francisco* operates at the San Francisco location.

The Daily Crime Log includes the incident type, date incident is reported, date and time of occurrence, and general location of each reported incident type, as well as the disposition of the incident, if this information is known. The staff at *Wharton | San Francisco* posts specific incidents in the Daily Crime Log within two business days of receiving a report of an incident and reserves the right to exclude reports from a log in certain circumstances as permitted by law.

The most current 60 days of information is available by requesting to review the Daily Crime Log book that is maintained by Brandon Lodriguss at *Wharton | San Francisco*. In addition, *Wharton | San Francisco* maintains a seven year archive of the Daily Crime Log. Requests for information older than 60 days must be directed to Brandon Lodriguss at *Wharton | San Francisco*. Information will be made available within two business days of a request for public inspection.

- **Fire Safety**

If a fire occurs in any area occupied by faculty, staff or students attending classes at *Wharton | San Francisco*, community members should immediately notify the San Francisco Police and Fire Department by calling 9-1-1. The front desk at *Wharton | San Francisco* should also be notified at (415) 267-6300.

If a member of the *Wharton | San Francisco* community finds evidence of a fire that has been extinguished, and the person is not sure whether the San Francisco Fire Department and Police Department has already responded, the community member should immediately notify 9-1-1 to investigate and document the incident.

*Wharton | San Francisco* has a fire alarm system to alert community members of potential hazards. Community members are required to heed an activated fire alarm system, and evacuate a building immediately. Use the nearest available exit to evacuate the building. Gather outside at either the primary or secondary Building Area of Refuge (BAR) as noted on the building's Emergency Procedures Bulletin. Community members should familiarize themselves with the exits in each building.

When a fire alarm is activated, the elevators in most buildings will automatically recall to a pre-designated fire safe floor. Occupants should use the stairs to evacuate the building. If you are caught in the elevator, push the emergency phone button. The emergency phones in elevators on campus ring to the front security desk. *Wharton | San Francisco* Community members who require additional assistance in emergency situations should notify the Director at *Wharton | San Francisco* during the registration process. This information can be added to the emergency evacuation plan for the site to ensure that provisions are made to assist individuals during the evacuation process. During annual fire and evacuation drills all *Wharton | San Francisco* community members participate in special training sessions conducted by building security and the local fire department to identify safe evacuations exits and staging areas where individuals report to for accountability.

- **Fire Protection Equipment/Systems**

The classrooms at *Wharton | San Francisco* are equipped with automatic fire detection and alarm systems which are monitored by Hills Plaza Security, 24/7.