

# The University of Scranton

**\*All forms of sexual harassment and sexual misconduct are governed by and processed through the**



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

This policy is available on the University's Policy website, [www.scranton.edu/du/c](http://www.scranton.edu/du/c)



may also be an individual who attends a post-secondary educational institution other than the University but who resides in a University residence. Persons who are not officially enrolled for

c. Assault, battery, other acts of violence, sta

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

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

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

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

**A. Overview**

Upon receipt of a report of complaint, and through the completion of the investigation and determination, the University, through the Office of Equity and Diversity, will take reasonable and appropriate interim measures to protect the parties when there is a significant conduct or health and safety concern that requires immediate intervention to preserve and support the general welfare and academic experience of the parties or the University community. The Executive Director or Assistant Director will contact the parties and remain available to ensure that safety, and emotional and physical well-being concerns, are addressed. Interim measures may be imposed at any time regardless of whether formal disciplinary22 ( b) brle2 (t)-(b)2 (le)





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

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

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

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

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

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

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

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

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

University Policies:

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

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

The Staff and Administrator Handbook:



## Appendix A.

### Consensual Relationship:

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

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

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

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

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

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

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

In recognition and support of academic freedom for faculty in the pursuit of teaching, in

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

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

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

**Appendix D:**





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

### Investigation

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

### Investigation Report:

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

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

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

Notice of Investigation Outcome:

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

Determination  
Faculty or Staff

The Provost or respective Vice President, in collaboration with the Vice President for Human Resources, will determine whether/what corrective action is appropriate consistent with Pennsylvania, Federal law and/or University Policy for any faculty or staff. Corrective action or discipline will be reasonably calculated to make the harassing behavior stop and/or to remedy the a2 (r)-.14 (e).

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

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

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

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