

SEXUAL HARASSMENT POLICY AND PROCEDURES

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

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

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

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

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

All members of the University community are responsible for ensuring that their conduct does not sexually harass any other member of the University community. Any individual having information about a member of the University community engaging in a specific act or a pattern of behavior which falls within

the above definition of sexual harassment should discuss the matter with the Social Equity Director.

The University has a legal obligation to investigate informal or anonymous reports of sexual harassment to the extent feasible. It is not usually possible to conduct a formal investigation of anonymous reports of sexual harassment; however, the University has a responsibility to take action to prevent harassment. In the event of anonymous reports of sexual harassment, the Office of Social Equity will meet with the alleged harasser to provide notification of the allegations and the possible repercussions if a formal complaint is brought forward. The Social Equity Office may recommend voluntary sexual harassment training for an individual or a work unit.

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

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

West Chester University discourages romantic or sexual relationships between faculty and students and between supervisors and subordinates. Because of the inherently unequal nature of a relationship in which one party supervises, advises, or evaluates the other, the apparent consensual status of a romantic or sexual relationship between such parties is suspect even when both parties have given voluntary consent. Such relationships not only put into question the individual's professional ethics but have the potential for adverse consequences, including the filing of charges of sexual harassment; thus faculty

members and supervisors should be aware that they put themselves at risk if they engage in romantic or sexual relations with a student or subordinate under their supervision.

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

Complaints against a student brought by a staff member, faculty member or another student should be brought to the attention of the Director of Judicial Affairs and Student Assistance. The procedures for handling such matters involving students or student organizations are detailed in the Student Code of Conduct found in the Ram's Eye View Student Handbook and will be processed through the student judicial system.

SEXUAL HARASSMENT COMPLAINT PROCEDURE

The procedures described in West Chester University's Sexual Harassment Policy represent the University's method for responding to complaints of sexual harassment whether those complaints are formal or informal. The procedure for informal complaints calls for prompt review and mediation if desired, followed by action intended to prevent any harassment. The procedure for formal complaints also results in prompt review which may result in disciplinary action against someone who has sexually harassed another. To the extent possible, the University expects to complete the investigation within 50 business days of receiving a written complaint unless there are extenuating circumstances which may prevent the University from complying with this timeframe.

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

PA Human Relations Commission	(215) 560-2496	180 days
U.S. Dept. of Education, Office for Civil Rights	(215) 656-8541	180 days
Equal Employment Opportunity Commission	(215) 440-2600	300 days

Employees accused of sexual harassment have the right to be assisted by their collective bargaining unit representative at any meeting held to discuss the complaint with the accused. If an employee elects to be represented by his or her union, the union will receive copies of all written notifications sent to the accused. Employees equally have the right not to be represented by their union. The decision regarding union representation rests solely with the accused.

employee. When a formal investigation is to be conducted against a faculty member, Article 43 of the APSCUF collective bargaining agreement will also govern.

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

- . clarify procedural issues,
- . assist with the preparation of the complaint,
- . make inquiries as to the status of the complaint,
- . provide other support-related functions.

The Social Equity Director will provide a list of available advocates from which one will be selected by the complainant, if he or she so desires. The role of the Collective Bargaining Unit representatives and complainant advocates is limited to the advice and counsel of their principals only.

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

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

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

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

At the conclusion of the process, written outcomes and resolutions will be disclosed to the complainant and the accused.

The Complaint Process

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

Director of Social Equity
13-15 University Avenue – Room 100
436-2433

Director of Women's Center
Lawrence Center – Room 100
436-2122

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

Assist. V.P. for Student Affairs
Sykes Student Union – Room 238
436-2117

Associate V.P. for Human Resource Services
201 Carter Drive – Suite 100
436-2800

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

The Social Equity Director will be responsible for initially determining if the complaint may represent a violation of the University's sexual harassment policy. If the Social Equity Director determines that the complaint does not violate the University's Sexual Harassment Policy, the individual filing the complaint will be so advised and the on campus case will be closed. If there is a disagreement with this decision, the individual filing the complaint may ask that the decision be reviewed by the Review Panel. The Social Equity Director does maintain the right to refer the case to other appropriate officials if it appears there may be

other misconduct not construed to be sexual harassment. If the Social Equity Director determines that the allegation may represent a violation of the University's sexual harassment policy, the complainant may choose to process the complaint through either the informal or formal procedures.

Informal Complaint Procedure

Informal procedures (wherein no formal finding or discipline of an employee will be involved) include efforts to mediate a resolution upon which both the complainant and the individual accused of sexual harassment behavior can agree.

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

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

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

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

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

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

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

All written summaries of the Informal Complaint Procedure will be maintained by the social equity office for a period of five (5) years.

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

Formal Complaint Procedure

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

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

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

After accepting a written formal complaint, the Social Equity Director will appoint a fact finder. When appropriate, as determined by the Social Equity Director, two fact finders may be assigned to a case. The Social Equity Director

will notify the parties of the fact finder's identity. In addition, the appropriate manager, supervisor and/or chairperson will be advised. Fact finders are specifically trained and impartial faculty or staff. The fact finder's role is to investigate complaints and make findings of fact pertaining to the complaint. Investigating complaints includes but is not limited to access to records and interviewing the complainant, accused and others who may have relevant information. The fact finder has sole discretion to determine the scope and format of the investigation.

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

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

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

The manager will utilize the existing University pre-disciplinary conference procedures, ensuring that the accused employee has the opportunity to be represented, if so desired, by his or her union representative during the pre-disciplinary conference proceedings. At the pre-disciplinary conference the accused will have an opportunity to rebut the findings of the fact finders' report, the recommendations of the review panel, and the opinion of the Social Equity Director. After completing the pre-disciplinary conference, the manager in consultation with the Associate Vice President for Human Resource Services and other University officials as needed, will determine if discipline is appropriate, and if appropriate, what level of discipline should be imposed. Possible disciplinary actions for violation of the University's sexual harassment policy include oral or written reprimand, suspension, or termination of employment. The manager is

not bound by the opinion of the Social Equity Director and reserves the right to make his or her own final determination.

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

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

Addendum to Sexual Harassment Policy – February 2002

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

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

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

Supplementary Materials

Sexual Harassment Investigation Guidelines

The guidelines provided below are an outline for conducting investigations of formal complaints. This document is to serve as a guideline only with the understanding that on a case-by-case basis, some modifications may have to be made.

I. Gathering the Facts

A. Interview of the Complainant

1. Explain the investigation procedures.

2. Review each allegation in the written complaint to confirm that the statements are accurate.
3. Probe to determine the specifics of what happened.
4. Determine the effect of the alleged harassment on the complainant.
5. Probe for the names of individuals who may have knowledge of or information concerning the complaint.
6. Advise the complainant that confidentiality is expected to be maintained.

B. Interview of the Accused

1. Explain the purpose of the interview and the investigation procedures, but state that no decision has been made to the truthfulness of the allegations.
2. Identify the complainant and the specific basis of the sexual harassment complaint.
3. Review each allegation in the written complaint and give the accused an opportunity to respond whether they affirm, deny or affirm or deny the allegations with the clarification.
4. Probe to determine the specifics of what did or did not happen.
5. Probe for names of individuals who may knowledge of or information concerning the complaint.
6. Advise the accused that the complaint should not be discussed with the complainant and inform the accused that retaliation is prohibited.
7. Advise the accused that confidentiality is expected to be maintained.

C. Interviews With Witnesses and Other Individuals

1. Inform the witness or person being interviewed that fact-finding is being conducted to pursue an allegation of sexual harassment and that their statements may become a part of an official fact-finding report.

2. Confirm that information given by the complainant is being shared freely without fear of retribution.
3. Probe to determine the specifics of what knowledge the individual has concerning the complaint.
4. Distinguish between first-hand and second-hand information.
5. Advise witnesses that they should not discuss the complaint with other witnesses and confidentiality is to be maintained.

II. The Fact-Finder's Evaluation of the Facts and Preparing the Report

- A. Facts are to be evaluated from the perspective of a reasonable person of the same sex as that of the complainant and not solely from the perspective of the complainant in the case under investigation.
- B. A thorough and even-handed report is to be drafted to be inclusive of the following:
 1. Chronological reporting of the events.
 2. Notation of the initial date of the complaint.
 3. Statement of the exact details of the complaint.
 4. Notation of documents reviewed.
 5. Description and summary of the interviews.
 6. For all witnesses and others interviewed, distinguish between first-hand knowledge, second-hand knowledge, or rumor.

III. Consideration of the Fact-Finder's Report by the Review Panel

- A. Upon receipt of the fact-finder's report, the Social Equity Office will convene the Review Panel consisting of three individuals selected by the Social Equity Director from a pool of trained and impartial faculty or staff members.
- B. The panel will review the complaint, fact-finding report, other

related information, and meet with the fact-finder(s) to discuss their findings.

- C. Serving as consultants to the Social Equity Director, the panel will assist the Social Equity Director in formulating an opinion as to whether reasonable cause exists to believe that the University's Sexual Harassment policy has been violated.
 - D. The Social Equity Director will formulate an opinion as to whether there is reasonable cause to believe that there has been a violation of the University's Sexual Harassment Policy.
 - E. If it is the opinion of the Social Equity Director that there is reasonable cause to believe that the University's policy on sexual harassment has been violated, the Social Equity Director will forward the fact-finding report, Review Panel recommendation and Social Equity Director's determination to the appropriate manager.
- IV. Convening of the Pre-Disciplinary Conference Proceedings (PDC).
- A. The Associate Vice President for Human Resource Services will convene the PDC.
 - B. Prior to attending the PDC, the accused will be in receipt of the fact-finding report, Review Panel Recommendations and the Social Equity Director's opinion.
 - C. The accused will be given an opportunity to respond to the documentation.
 - D. The PDC will be attended by the appropriate manager, Associate Vice President for Human Resource Services, the Social Equity Director, the accused, and their collective bargaining representative if he or she so desires.
 - E. After completing the PDC, the appropriate manager, in consultation with University officials as needed, will determine if discipline is appropriate, and if appropriate, what level of discipline is to be imposed.
- V. Due Process
- A. The accused will be afforded the following opportunities to ensure that due process is extended:

1. To know the identity of the complainant and the allegations made.
2. To be assisted in the complaint process by a collective bargaining representative if they so desire.
3. To provide the fact-finder(s) with a response to the complaint and to offer witnesses or materials that might support a defense against the allegations.
4. To review and respond to the documentation prior to any action being taken against the accused.

VI. Assistance Available to the Complainant and the Accused

- A. The complainant may be assisted in the preparation and processing of their complaint by a University advocate or selected advisor.
- B. The accused may be assisted in the preparation and processing of their response to the complaint by a collective bargaining representative.
- C. Individuals assisting the complainant or the accused are permitted to provide advice and counsel only and are not permitted to participate in the proceedings.

Glossary

Complainant

The individual making the allegation of sexual harassment.

Accused

The individual against whom the allegations and/or charge of sexual harassment is made.

Informal Complaint

The filing of a written complaint calling for a prompt review and mediation of the allegation, if desired by both parties, followed by action intended to end any harassment that may have occurred, without formal finding being reached or discipline imposed.

Formal Complaint

The filing of a written complaint calling for a prompt review and investigation of the allegation, followed by action intended to end any harassment that may have occurred; a formal finding is reached and discipline may be imposed and become part of an employee's personnel file if appropriate.

Contact Persons

University officials who may serve as an initial point of contact to provide information regarding sexual harassment and the University's procedures in handling complaints.

Advocate

A trained individual available to the complainant who can assist in all aspects of complaint procedures through clarifying procedural issues, assisting with the preparation of the complaint, making inquiries as to the status of the complaint and providing other support to the complainant.

Mediator

A trained, impartial individual who facilitates a dialogue between the complainant and the accused, in an informal complaint, toward an agreed upon resolution.

Fact-Finder

A trained, impartial individual who conducts an investigation and determines the facts of the complaint through interviews and the review of materials.

Review Panel

Three trained impartial individuals selected from a pool of impartial faculty or staff who will serve as consultants to the Social Equity Director in formulating an opinion as to whether the fact-finder's report indicates that a violation of the University's sexual harassment policy had taken place.

Pre-Disciplinary Conference

A meeting convened to give the accused an opportunity to respond to the fact-finder's findings and the determination made by the Social Equity Director in consultation with the Review Panel.

Quid Pro Quo

A form of sexual harassment in which submission to or rejection of specific conduct by an individual is used as a basis for decisions affecting one's learning or work environment; something given or withheld in exchange for something else.

Hostile Environment

A form of sexual harassment in which there is unwelcome conduct of a sexual nature that is sufficiently severe, persistent, or pervasive as to substantially limit or interfere with an individual's work, educational performance, participation in

extra-curricular activities, or equal access to the University's resources and opportunities; or which creates an intimidating, hostile, or abusive living, work, or educational environment.

Reasonable Cause

Reasonable cause exists if the facts and circumstances described in the fact finders' report are based on reasonably trustworthy evidence and would warrant a person of reasonable prudence to conclude that sexual harassment had occurred.

Unwelcome

Conduct is unwelcome if the complainant did not request or invite it and regarded it as undesirable or offensive. Acquiescence in the conduct, or failure to complain, does not necessarily mean that the conduct was welcome. Factors to consider in determining whether conduct was unwelcome include the nature and frequency of the conduct, the authority or influence that the accused may have had over the complainant and the impact that the conduct had on the complainant.