

TEMPLE UNIVERSITY

POLICIES AND PROCEDURES MANUAL

Title:	Preventing and Addressing Sexual Misconduct
Policy Number:	04.82.02
Issuing Authority:	Office of the President
Responsible Officer:	University Counsel
Date Created:	September 10, 1992
Date Last Amended/Reviewed:	July 1, 2017
Date Scheduled for Review:	May 2020
Reviewing Office:	Office of University Counsel

Scope of Policy & Rationale:

Temple University recognizes a continuing need to develop a comprehensive policy that addresses campus sexual assaults, domestic violence, dating violence, stalking, and sexual exploitation. In this context, Temple University reaffirms its commitment to maintain a campus environment emphasizing the dignity and worth of all members of the university community.

Policy Statement

Temple University does not tolerate sexual misconduct. Sexual misconduct includes sexual assault, domestic violence, dating violence, stalking, and sexual exploitation. This policy is intended to promote an environment at Temple University that is free of sexual misconduct, as well as one that is consistent with other constitutional protections and personal freedoms. Specifically, this policy provides for:

- (1) comprehensive education and prevention programs that inform the university community about the risks and myths that contribute to sexual misconduct;
- (2) procedures sensitive to those who report alleged sexual misconduct, including informing individuals about their right to file criminal charges as well as the availability of medical, counseling and support services, and alternative remedies such as housing and academic accommodation, if reasonably available; and
- (3) university disciplinary sanctions for those who commit sexual misconduct.

Definitions

- (1) Consent: Consent in relationship to sexual activity is defined in Pennsylvania in accordance with its plain and common meaning.¹ With respect to sexual activity, consent means words or actions that show a knowing and voluntary agreement to engage in mutually agreed sexual activity. Consent must be ongoing through sexual activity and can be revoked at any time. Mere assent (an affirmative statement or action) shall not constitute consent if it is given by a person who is unable to make a reasonable judgment concerning the nature or harmfulness of the activity because of their

¹ See Com. v. Duffy, 832 A.2d 1132, 1139 (Pa. Super. 2003).

intoxication, unconsciousness, youth, mental deficiency or incapacity, or if the assent is the product of threat or coercion.² Consent to prior sexual activities does not constitute consent to future acts.

(2) Sexual Assault:

Includes any of the following:

- (a) Any intentional and unconsented touching, or threat or attempt thereof, of: (i) an intimate bodily part of another person, such as a sexual organ, buttocks or breast; (ii) any bodily part of another person with a sexual organ; or (iii) any part of another person's body with the intent of accomplishing a sexual act; or
- (b) Disrobing of another person without the other's consent or purposeful exposure of one's genitals to another without the other's consent; or
- (c) Forcing, or attempting to force, any other person to engage in sexual activity of any kind without the other's consent.

(3) Domestic Violence: means an act of violence committed 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 who has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim, 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 Commonwealth of Pennsylvania, or as "domestic violence" is otherwise defined under the laws of the Commonwealth of Pennsylvania.³

(4) Dating Violence: Means violence committed by a person—

- (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) where the existence of such a relationship will be determined based on the victim's statement and with a consideration of the following factors:
 - (i) The length of the relationship.
 - (ii) The type of relationship.
 - (iii) The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts that meet the definition of "domestic violence".

(5) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer

² See 18 Pa.C.S.A. §311.

³ See 23 Pa. C.S.A. § 6102, et seq. and 18 Pa.C.S.A. § 2711.

severe emotional distress; or as “stalking” is otherwise defined by the law of the Commonwealth of Pennsylvania. One engages in an impermissible course of conduct if one engages in two or more acts that include, but are not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates about a person in a way prohibited as described above, or interferes with a person’s property.⁴

- (6) Sexual Exploitation includes, but is not limited to: non-consensual visual or audio recording of sexual activity; non-consensual display or distribution of photos, images or information of an individual’s sexual activity or intimate body parts; non-consensual voyeurism; prostituting another person; or knowingly transmitting sexually transmitted infections (STI) or sexually transmitted diseases (STD) without disclosing that one is infected with an STI or STD.

Education and Prevention Programs

In collaboration with the Title IX Coordinator, various university offices (Wellness Resource Center, Institutional Diversity, Equity, Advocacy, and Leadership (“IDEAL”), Human Resources, etc.) provide educational programming and training opportunities for students, faculty, and staff regarding sexual violence.

The university’s Wellness Resource Center, together with the Title IX Coordinator are responsible for developing and implementing a comprehensive, institution-wide education and prevention campaign for students related to the prevention of sexual misconduct.

The Wellness Resource Center’s responsibilities include:

- (1) Developing orientation programs for new students, faculty and staff, and developing ongoing awareness campaigns regarding the university’s policies and prevention programs related to sexual misconduct, including Pennsylvania’s definitions of sexual misconduct, as well as how to avoid potential incidents;
- (2) Training selected students and faculty and staff members to provide support, education, and referrals to victim-survivors;
- (3) Training residential life staff, orientation group leaders, and members of high-profile, identifiable groups on risk factors, warning signs of abusive behavior, and risk reduction for sexual misconduct, as well as how to avoid potential attacks or incidents;
- (4) Conducting workshops on rape myths and risk factors associated with sexual assault, including programmatic intervention with high-profile groups;
- (5) Working cooperatively with various university programs regarding curricular development and faculty and staff development;
- (6) Providing safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of sexual misconduct against a person other than the individual; and
- (7) Providing referrals to Tuttleman Counseling Services.

In addition to the prevention and educational responsibilities of the Wellness Resource Center,

⁴ See 18 Pa.C.S.A. § 2709.1.

Tuttleman Counseling Services is responsible for providing counseling services to students who have experienced sexual misconduct.

The Department of Human Resources is responsible for facilitating training on this policy to university employees. Human Resources responsibilities include:

- (1) Providing training on this policy at new hire orientation, which will include Pennsylvania's definitions of sexual assault, consent, domestic violence, dating violence, sexual exploitation, and stalking;
- (2) Referring and providing support for employees who experience sexual misconduct to the appropriate law enforcement agency as well as the Employee Assistance Program and other external resources; and
- (3) Providing ongoing educational resources for faculty and staff regarding the university's policies and prevention programs related to sexual misconduct.

Assistance for Victims

The university will assist victims of sexual misconduct regardless of whether the individual proceeds with a complaint through the university or through the criminal justice system.

To the extent of the victim's cooperation and consent, the Title IX Coordinator will help coordinate various university offices, including, but not limited to, Campus Safety Services, the Special Services Coordinator at Campus Safety Services, Tuttleman Counseling Services, and the Wellness Resource Center to ensure that the victim's health, physical safety, and academic status are protected. For example, if reasonably available, a victim may be offered changes to academic or living situations in addition to counseling, health services and assistance in notifying appropriate local law enforcement. Campus Safety Services may also provide assistance in directing individuals on how to obtain protection from abuse orders through the appropriate court.

Campus Resources

- [Campus Safety Services](http://www.temple.edu/safety/) (<http://www.temple.edu/safety/>) (215.204.1234)
- Title IX Coordinator (sexualmisconduct.temple.edu)
 - Andrea Caporale Seiss (215.204.3283)
- Student Health Services (<http://www.temple.edu/studenthealth/>) (215.204.7500)
- [Tuttleman Counseling Services](http://counseling.temple.edu) (including Sexual Assault Counseling and Education) (counseling.temple.edu) (215.204.7276)
- Wellness Resource Center (wellness.temple.edu) (215.204.8436)
- [Office of Student Conduct and Community Standards](http://studentconduct.temple.edu) (studentconduct.temple.edu) (215.204.3286)

Off-Campus Resources

- Philadelphia Police (911)
- The Philadelphia Sexual Assault Response Center (215.800.1589)
<https://www.drexelmed.edu/Home/AbouttheCollege/DepartmentsCentersandInstitutes/ClinicalDepts/EmergencyMedicine/DivisionofForensicEmergencyMedicine.aspx>
- North Central Victims Services Counseling Services (215.763.3282)

- Women in Transition Counseling (215.763.1111)
- Women Organized Against Rape Hotline (215.985.3333)
- Pennsylvania [Coalition Against Rape](http://www.pcar.org/) (<http://www.pcar.org/>)
- Pennsylvania Coalition Against Domestic Violence (<http://www.pcadv.org/>)
- Rape, Abuse and Incest National Network (www.rainn.org)
- The National Center for Victims of Crime (www.ncvc.org/ncvc/Main.aspx)
- National Organization of Male Sexual Victimization (www.malesurvivor.org)
- [Department of Justice - Office on Violence Against Women](http://www.ovw.usdoj.gov/sexassault.htm) (<http://www.ovw.usdoj.gov/sexassault.htm>)

Procedures for Reporting a Complaint

University internal investigations and any disciplinary or remedial actions are independent of any civil, criminal or external administrative investigation. The University may pursue an investigation, take appropriate remedial action and/or impose disciplinary sanctions against a member of the university community at the same time the individual is facing criminal charges for the same incident, even if the criminal prosecution is pending, has been dismissed, or the charges have been reduced.

The informal and formal university procedures set forth below are intended to afford a prompt response to charges of sexual misconduct, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.

After an incident of sexual misconduct, the victim should consider seeking medical attention and/or law enforcement assistance as soon as possible. In circumstances of sexual assault, health care providers can treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. Although the university strongly encourages all members of its community to report violations of this policy to law enforcement, it is the victim's choice whether or not to make such a report. Tuttleman Counseling Services and Women Organized Against Rape (WOAR) provide victims a confidential resource where individuals can get emotional support and discuss reporting options, if they choose.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a victim chooses not to make a complaint regarding an incident, they nevertheless should consider speaking with Campus Safety Services or other law enforcement to preserve evidence in the event of a later change of mind.

Students reporting violations of this policy will receive amnesty from alcohol or drug violations pursuant to the university's Student Conduct Code.

Formal Complaints

Persons wishing to file formal complaints of sexual misconduct ("complainants") may contact the Title IX Coordinator or Campus Safety Services, who are primarily responsible for coordinating university investigations of these complaints. At the complainant's request, the Philadelphia Police Department's Special Victims Unit will be contacted to lead any criminal investigation. All formal complaints will be treated confidentially, consistent with applicable legal requirements and

customary law enforcement practices. Victims (whether they are complainants or not) will be informed promptly of available support services, as well as legal and administrative options, if reasonably available, such as protection from abuse orders through an appropriate court of law and changes to housing assignments and academic or work schedules.

Complainants as well as victims will be informed about the outcome of any investigation undertaken by the university. In addition, under appropriate circumstances, the university will inform members of the university community of reported sexual misconduct without identifying the victim. In appropriate cases, reports made to Campus Safety Services will automatically be referred to the Office of Student Conduct and Community Standards.

Formal Disciplinary Procedures

Whether or not criminal charges are filed, the university or a person may file a complaint with the university alleging that a member of the university community violated this policy on Preventing and Addressing Sexual Misconduct. That complaint will be investigated by the appropriate office and resolved through one of the following processes:

1. Alleged violations of this policy by students will be governed by the disciplinary procedures applicable to charges of such misconduct under the Student Conduct Code Policy No. 03.70.12, which is available on the university's policies and procedures webpage (<http://policies.temple.edu/initial.asp>);
2. Alleged violations of this policy by a member of the full-time faculty will be governed by the disciplinary procedures applicable to faculty in the Faculty Handbook and/or the applicable collective bargaining agreement.
3. Alleged violations of this policy by graduate assistants or other instructional personnel, the provost (or designee) and/or the Vice President of Human Resources (or designee) will investigate. If necessary, they will initiate disciplinary proceedings in accordance with university Rules of Conduct and Employee Manual;
4. Alleged violations of this policy by non-union employees, will be investigated by the university officer responsible for the unit employing the accused and/or the Vice President of Human Resources (or designee). If necessary, they will initiate disciplinary procedures in accordance with university Rules of Conduct and Employee Manual;
5. Alleged violations of this policy by union staff members will be governed by the disciplinary procedures in accordance with the applicable collective bargaining agreement;

All university disciplinary processes will be prompt, fair, and conducted by properly trained individuals.

Student Conduct Code Process

1. The complainant⁵ and the accused student each have the opportunity to attend and to

⁵ In the event a victim of sexual misconduct is not also the complainant, the victim will be afforded the same procedural rights as a complainant.

- present evidence at a hearing before a properly trained hearing board, which may include or be comprised of an external adjudicator;
2. The complainant and the accused student each have the opportunity to be advised by a personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult and advise their advisee, but not speak for the advisee at any meeting or hearing;
 3. A student conduct decision is based on the “more likely than not” standard. In other words, the conduct process asks: “is it more likely than not that the accused student violated the university’s Student Conduct Code?”;
 4. The complainant and the accused student will be notified simultaneously in writing of any university disciplinary actions taken against the accused student, as well as any changes to those disciplinary actions; and
 5. The complainant and the accused student each have the right to appeal the outcome of the hearing and will be notified simultaneously in writing of the final outcome after the appeal is resolved.

The university recognizes that sexual misconduct may also be considered sexual harassment. A person alleging sexual misconduct may also utilize the complaint and investigatory procedures set forth in the university’s policy against Sexual Harassment (policy number 04.82.01) in order to remedy any hostile environment. All conduct proceedings against students, however, will be resolved through the Student Conduct Code.

Informal Complaints

If a person reports to a university administrator, department head, or faculty member that they have been a victim of sexual misconduct but chooses not to file a formal complaint at that time, the complainant will be referred immediately to Tuttleman Counseling Services and promptly notified of available support services on- and off- campus and alternative remedies. Informal complaints to university personnel will be treated as confidentially as possible, consistent with applicable legal requirements and safety considerations. Complainants should also consider speaking with the Title IX Coordinator (sexualmisconduct.temple.edu) who can help guide them through the appropriate process.

Confidentiality

The university will protect the identity of persons who report having been victims of sexual misconduct to the fullest extent of the law. If the complainant would like to remain anonymous and does not consent to the disclosure of their name or other identifiable information to the accused, the University may be limited in its ability to take disciplinary action.

If the complainant still wishes to remain anonymous, the University will make every reasonable effort to abide by complainant’s wishes; however, the University is required to balance such a request with interest in protecting the safety of other members of the community. This decision will be made by the university’s Title IX Coordinator, the Executive Director of Campus Safety Services, and the Dean of Students, or their designees, in conjunction with the Office of University Counsel as well as any other necessary university offices. If the University proceeds with an investigation or other response, then the University will notify the complainant before

the accused is contacted.

Student victims of sexual misconduct can report confidentially to:

Tuttleman Counseling Services
T: 215.204.7276
<http://www.temple.edu/studentaffairs/counseling/>

Student Health Services
T: 215.204.7500
<http://www.temple.edu/studenthealth/>

Women Organized Against Rape (WOAR)
T: 215.985.3333
<http://www.woar.org>

Employee victims of sexual misconduct can report confidentially to:

Employee Health Services
T: 215.204.2679
<http://www.temple.edu/employeehealth/>

Employee Assistance Program
T: 1.888.267.8126
<http://www.temple.edu/hr/departments/benefits/eap.htm>

Women Organized Against Rape (WOAR)
T: 215.985.3333
<http://www.woar.org>

Student and employee victims of sexual misconduct can report confidentially to:

The Psychological Services Center (PSC)
T: 215.204.7100 or e-mail psc@temple.edu to request an appointment.
The PSC is located in Temple University's Entertainment and Community Education Center (ECEC) at 1509 Cecil B Moore Ave, Suite 420, Philadelphia, PA 19121.

Sanctions

In appropriate cases, formal complaints will lead to the initiation of disciplinary procedures applicable to the alleged actions of the accused individual. University sanctions, up to and including separation from the university, may be imposed upon those determined to have violated this policy. For students, sexual misconduct is a violation of the Student Conduct Code. Student sanctions can include probation, psycho-educational counseling, suspension, or expulsion. Employees who violate this policy will be subject to discipline, up to and including termination of employment. Sexual misconduct can consist of criminal acts which also may subject the perpetrator to criminal and civil penalties under federal and state law.

Retaliation is Prohibited:

Threats, other forms of intimidation, and retaliation in any form against any member of the university community who exercises their right to initiate a complaint or inquiry in good faith under this policy is strictly prohibited, and will itself be cause for appropriate disciplinary action.

Review

From time to time, the President may appoint an oversight committee made up of students, faculty and/or staff to monitor and recommend revisions to the university's policies, programs, and procedures relating to sexual misconduct, including revisions required to comply with federal and state law.

Notice

This policy is published on the university's policies and procedures website (policies.temple.edu). Hard copies are available in the Title IX Office, Room 314 in the Student Center, Office of Equal Opportunity Compliance, 2 Mezzanine, Sullivan Hall, as well as in Tuttleman Counseling Services, the Office for Student Conduct and Community Standards, the Wellness Resource Center, and Campus Safety Services and will be provided to students or employees who report they are victims of sexual misconduct whether the conduct occurred on- or off-campus.

Notes

1. Dates of official enactment and amendments:

Adopted by the President on September 10, 1992.

2. History:

This policy was formerly designated as Presidential Policy Statement No. I-27.
Revised and renamed (formerly known as the policy on "Sexual Assault")
October 1, 2013.
Revised July 2015.
Revised and renamed July 2017

Supersedes:

Reviewed By:

3. Cross References/Appendix:

Sexual Harassment policy #04.82.01
Preventing and Addressing Discrimination and Harassment policy #04.81.11
Student Conduct Code policy #03.70.12
Ratification of Nondiscrimination policy #04.81.01
Nondiscriminatory policy (as to Students) #04.81.02

Ethnic Intimidation policy #04.81.03

For the current listing of Equal Opportunity Ombudsperson Appointments, please refer to <http://www.temple.edu/eoc/AppDev/ombuds.asp>