



2021 ANNUAL FIRE SAFETY & SECURITY REPORT FOR THE STATE SYSTEM CENTER CITY



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INFORMATION FOR THE 2021-2022 ACADEMIC YEAR AND STATISTICS FOR 2020, 2019, 2018.

INTRODUCTION

The Center City Campus of the Pennsylvania State System of High Education (PASSHE Center City Campus) is located in the Mellon Independence Center, 701 Market St. Concourse Level Philadelphia, PA 19106; phone 267-386-3001. The PASSHE Center City campus is one multi-university center. West Chester University For the 2020 Calendar year West Chester University and Bloomsburg University were the only participating universities in the State System with a presence on the PASSHE Center City Campus. For Bloomsburg University's Crime Statistics for the Center City Campus please consult their Annual Security Report for the PASSHE Center City Campus. Admissions, Financial Aid, Tuition and Fees questions specific to each institution should be directed to either West Chester University or Bloomsburg University. As of May 2021, WCU assumes all responsibility for the Philadelphia Center meaning PASSHE is no longer responsible for the space. West Chester University is the only institution offering courses at this location.

Safety on all campuses of higher education is a source of concern for parents, students, and employees, and no campus is entirely isolated from crime. The PASSHE Center City campus is no exception; however, the PASSHE Center City campus has developed policies and implemented procedures, in conjunction with the Mellon Independence Center, to increase safety and security awareness and to provide precautionary measures for all campus community members. This publication is designed to provide an overview of those safety and security measures.

As a recipient of federal Title IV Student Financial Aid, the PASSHE Center City Campus is required to adhere to the provisions of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, commonly referred to as the Clery Act. One provision of the Clery Act is that all postsecondary institutions receiving federal Title IV financial aid must publish an annual security report disclosing campus security policies and the most recent three years crime statistics. In compliance with the Clery Act, this report is prepared by the West Chester University and made available to the PASSHE Center City campus community and others, with the cooperation of local law enforcement agencies and the West Chester University.

This publication is distributed in accordance with the Pennsylvania College and University Security Information Act (24 P. S. § 2502-1-2502-5) and the following federal statutes: Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Section 486(e) of Public Law: 105-244 and The Accuracy in Campus Crime Reporting Act of 1997.

► **There is no housing associated with the PASSHE Center City Campus**

GEOGRAPHIC LOCATIONS

PASSHE Center City campus is required to report crime statistics for Clery-designated crimes and to issue timely warnings for those crimes that represent a severe and continuing threat in the following geographic locations: *on campus, public property and non-campus buildings and property.*

On Campus

Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

Any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as food or other retail vendor).

Public Property

All public property, including thoroughfares, streets and sidewalk the campus, or immediately adjacent to and accessible from the campus. For the PASSHE Center City campus, streets, alleys, sidewalks, and parks that are adjacent to campus or that bisect campus, would be included as public property.

Non-Campus Property

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 reasonably contiguous geographic area of the institution.

► **Clery crime and arrest statistics and Uniform Crime Reporting statistics are located in Appendix A**

REPORTING CRIMES

Who is responsible for campus security?

If a crime has been committed in the Clery geographical area, the individual may file a criminal report by contacting the Philadelphia Police Department, for emergencies dial 911 or The Allied Universal Security Company at the PASSHE State System Center City campus.

Philadelphia Police Headquarters:

750 Race Street, Philadelphia, PA 19160

Tips call: 215-686-TIPS or text PPDTIP Emergencies call: 911

Non-emergencies call: 311

Philadelphia 6th Police District

235 North 11th St, Philadelphia, PA 19107

215-686-3080 Emergencies call: 911

Mellon Independence Center Building Security:

Allied Barton Security Department

701 Market Street West lobby entrance

Philadelphia, PA 19106

215-238-9777 or 215-238-9306

UNIVERSITY STUDENT/EMPLOYEE POPULATION – FALL SEMESTER 2020

Student enrollment and employee figures are based on actual student head count. All figures are calculated at the beginning of the fall semester each year.

West Chester University

Undergraduate	72
Graduate	110
Non-Student Employees	4

* Numbers represent the Full Time Equivalent (FTE)

Bloomsburg University

Undergraduate	5
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* Numbers represent the Full Time Equivalent (FTE)

Fall 2020 total enrollment

Undergraduate	77
Graduate	110
Total FTE equivalent students	187
Non-Student Employees	4
Total FTE with employees	191

Source: WCU Office of Institutional Research

What is the PASSHE Center City Campus policy on encouraging the reporting of crimes?

The PASSHE Center City campus strongly encourages all faculty, staff, students, and guests to report any illegal or suspicious activity in a timely manner to the Philadelphia Police Department. Requests are submitted to the Philadelphia Police Department to provide crime statistics for inclusion in to the PASSHE Center City campus Annual Security Report. Additionally, any criminal situation or incident that involves a significant emergency or dangerous situation, should be reported to Joseph Santivasci, the Director of the PASSHE Center City campus (call: 610-436-3376). In addition, contact the Philadelphia Police Department (call: 215-686-TIPS or 911) for an assessment of whether a timely warning or emergency notification should be sent out to PASSHE Center City campus community as well as for purposes of including them in the annual statistical disclosure.

What is a Campus Security Authority? (CSA)

A campus security authority, commonly referred to as a CSA, is a person referred to by the Clery Act. While not defined in statute, regulations provide that CSAs include: campus police or security department personnel; individuals or organizations identified in institutional security policies; and individuals with security-related responsibilities. The definition found in the regulations governing the Clery Act state that a CSA also includes an official “who has significant responsibility for student and campus activities. CSAs are a vital part of data collection for the annual safety and security report. The Clery Act requires PASSHE Center City to provide an annual safety and security report. In addition to input from law enforcement, certain staff positions are designated as Campus Security Authorities (CSA) for the purpose of providing information for this report. CSAs are usually found in departments responsible for, but not limited to, student and campus activities, safety/security, discipline, housing, athletics, human resources, or judicial proceedings. This designation also includes any individual who has been specified by the reporting institution to receive and report offenses. PASSHE Center City has identified all PASSHE Center City personnel and faculty working at the campus as CSAs.

CSAs are responsible for reporting the number of crimes and incidents as described in the Clery Act that are reported to them. CSAs are then required to report the reports they received to the Director of PASSHE Center City. These numbers are then included in the federally mandated annual Clery Report, which is distributed every year by October 1st.

▶ Those incidents reported to pastoral and professional counselors are not included in campus crime statistics.

Pastoral and Professional Counselors

Those incidents reported to pastoral and professional counselors are not included in campus crime statistics. Pastoral and professional counselors, when acting as such, are not considered to be a campus security authority for Clery Act purposes and are not required to report crimes for inclusion in the annual disclosure of crime statistics. As a matter of policy, the professional counselors at West Chester University are encouraged, if and when they deem it appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary confidential basis to the Department of Public Safety for inclusion in the annual disclosure of crime statistics.

Pastoral Counselor – An employee of an institution who is associated with a religious order or denomination recognized by that religious order or denomination as someone who provides confidential counseling and who is functioning within the scope of that recognition as a pastoral counselor.

Professional Counselor – An employee of an institution whose official responsibilities include providing psychological counseling to members of the institution’s community and who is functioning within the scope of his or her license or certification.

Voluntary confidential reporting of crimes.

For those wishing to report a criminal incident, whether a victim, witness, or third party, reports may be made in confidence to the following offices where further options will be discussed with the reporting party.

Members of the PASSHE community are encouraged to accurately and promptly report crime and emergencies to the PASSHE Center City and the appropriate

police agencies, including when the victim of a crime elects to, or is unable to, make such a report.

PASSHE Center City, Philadelphia - Mellon Independence Center, 701 Market St., Concourse Level, Philadelphia, PA 19106, Phone: 267-386-3003

What is the enforcement authority of Public Safety personnel?

The PASSHE Center City campus does not provide campus police or security personnel for the campus. Philadelphia Police provide police services for the campus and a private building security contractor Allied Barton Security Department provides general security for the Mellon Independence Center, which includes PASSHE Center City campus.

Security Officers for Allied Barton Security Department have no power to detain or the power of arrest.

Security officers are not sworn officers, but they are responsible for providing security for the PASSHE Center City campus. The Security Officers document violations of PASSHE Center City campus policy/law and contact local law enforcement agencies to report observed violations of federal laws and state laws.

The Security Officers are contracted to operate on PASSHE owned or controlled property. They do not have the power of arrest, any incident that requires an investigation/arrest must be reported to the Philadelphia Police Department.

The Philadelphia Police Department is the nation’s fourth largest police department, with over 6600 sworn members and 800 civilian personnel. The department is the primary law enforcement agency responsible for serving Philadelphia County, extending over 140 square miles in which approximately 1.5 million reside.

What is the PASSHE Center City Campus policy on reporting criminal incidents to local and state police?

All crimes should be reported to the Philadelphia Police Department 750 Race St, Philadelphia, PA (215) 686-3053 (emergencies call: 911).

Crime statistics and arrest information for offenses occurring on the PASSHE

Center City campus should be reported directly to the Philadelphia Police Department. The Philadelphia Police Department

is the local enforcement agency. The Philadelphia Police Department reports crime statistics to the State via the Uniform Crime Reporting (UCR) system. The Philadelphia Police department also report crimes to the West Chester Department of Public Safety for any Clery Related Offenses.

What are the procedures for students and others to report criminal activity or other emergencies occurring on campus and how does the PASSHE Center City Campus respond to such reports?

The campus community should report criminal activity, fires, or medical emergencies to the Philadelphia 911 center, by dialing 911. The Philadelphia 911 Center maintains a 24-hour dispatch center to answer all calls for assistance. Upon receiving a request for assistance, an officer and any other appropriate personnel will be immediately dispatched to the location. All reported crimes will be investigated by the PASSHE Center City campus and may become a matter of public record. All incident reports are forwarded to the Executive Director Joseph Santivasci for review and referral to the Philadelphia Police Department for potential action, as appropriate. The Philadelphia Police Investigators will investigate a report when it is deemed appropriate. Additional information obtained via the investigation will also be forwarded to the Executive Director. If assistance is required from the Philadelphia Police Department or the Philadelphia Fire Department the appropriate investigative unit will be contacted. If a sexual assault or rape should occur, staff on the scene, including Crime Victim Center in Philadelphia will be contacted and offer the victim a wide variety of services.

Non-emergencies may also be reported to the following:

**Director,
PASSHE Center City, Philadelphia:**

Joseph Santivasci
West Chester University
Phillips Memorial BLDG 001
West Chester, PA 19383
610-436-3376

Philadelphia Police Headquarters:
750 Race Street, Philadelphia, PA 19160
Tips call: 215-686-TIPS or text PPD TIP
Emergencies call: 911
Non-emergencies call: 311

**Mellon Independence Center
Building Security: (Reports Crimes to Philadelphia Police)**

Allied Barton Security Department
701 Market Street West lobby entrance
Philadelphia, PA 19106
215-238-9777 or 215-238-9306

Daily Crime Log

The purpose of the Daily Crime Log is to record all reports of criminal incidents that are reported to the WCU Department of Public Safety. Crimes that occurred on campus, at a non-campus building or property, or on public property within the campus or immediately adjacent to and accessible from the campus and the crimes that occurred within the patrol jurisdiction of the Department of Public Safety are included in the Daily Crime Log.

Upon request, the Department of Public Safety will provide a copy of the daily crime log for the time-period specified by the requestor. The most recent 60-day is available immediately. Other time frames may take two business days to provide. The crime log will contain all crimes reported to the Department regardless of the classification. The listing will include the nature of the crime, case number, date and time reported, date and time occurred, general location and basic disposition of the crime. Daily Crime Logs will withhold any information that will identify victims.

Crime Logs are available, 24 hours a day, at the Department of Public Safety, located in the Peoples Building at 690 South Church Street.

Example of a Daily Crime Log:

Date Reported	Case Number	Location	Occur Date/Time 2 nd Date (if ranged)	Disposition	Nature of Crime
01/01/2020	WC-20-00168	709 S. NEW St	01/01/2020 0115	Physical Arrest	Poss/Etc Alcohol/ Minor

PASSHE Center City campus does not have a campus police or security department; as a result no Daily Crime Log is created by the PASSHE Center City Campus. The PASSHE Center City campus is covered by a contract private security company. To obtain a copy of the crime log, contact the West Chester University Public Safety Department for information (610) 436-3311.

Federal timely warning notification

In the event a crime is reported within the PASSHE Center City campus Clery Geography (On Campus, Public Property and Noncampus property), that, in the judgment of the Chief of Police or their designee, constitutes a serious or continuing threat, a campus wide “timely warning” notice will be issued.

Timely Warnings are typically issued for the following Uniform Crime Reporting Program (UCR)/National Incident Based Reporting System (NIBRS) crime classifications:

- Murder/Non-Negligent Manslaughter
- Aggravated Assault (cases involving assaults among known parties, such as two roommates fighting which results in an aggravated injury, will be evaluated on a case-by-case basis to determine if the individual is believed to be an ongoing threat to the larger PASSHE Center City campus community)
- Robbery involving force or violence (cases including pick pocketing and purse snatching will typically not result in the issuance of a Timely Warning Notice, but will be assessed on a case-by-case basis)
- Sexual Assault (considered on a case-by-case basis depending on the facts of the case, when and where the incident occurred, when it was reported, and the amount information known by the Chief of Police or their designee). In cases

involving sexual assault, they are often reported long after the incident occurred, thus there is no ability to distribute a “timely” warning notice to the community. All cases of sexual assault, including stranger and non-stranger/acquaintance cases, will be assessed for potential issuance of a Timely Warning Notice.

- Major incidents of Arson
- Other Clery crimes as determined necessary by the Chief of Police or their designee in their absence.

Timely Warning Notices may also be posted for other crime classifications and locations, even though that is not required by the law, at the sole discretion of PASSHE Center City campus.

Timely Warning Notices will be distributed as soon as pertinent information is available, in a manner that withholds the names of victims as confidential, and with the goal of aiding in the prevention of similar occurrences.

Timely Warning Notices are typically written and distributed by the Chief of Police or their designee.

Timely Warning Notices will be issued to the campus community via email blast to all PASSHE Center City campus assigned email accounts. Timely warnings may also be issued using some or all of the following methods of communication: text messages or emails or building postings by Building Administrators.

The institution is not required to issue a Timely Warning with respect to crimes reported to a pastoral or professional counselor.

Parties reporting Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking should be aware that under the Clery Act, the University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. If a report of sexual misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the city. The timely notification will not include any identifying information about the Complainant.

Protocols for Timely Warnings and Emergency Notifications:

- a. Text message/email using e2Campus emergency alert notification system. The Executive Director and members of the SS@CC management team will provide direction and encourage enrollment during semester orientation and other opportunities.
- b. Phone call and email to employees, faculty, and college/university program coordinators for whom contact information is available, and college/university police points of contact.
- c. Post onsite signage and/or verbally notify employees, faculty, students, and guests on site.

The Executive Director of the PASSHE Center City campus will issue timely warnings and emergency notifications as necessary and notify the campus community.

Emergency notifications due to site closure for weather or other events will be provided by the Executive Director, Dixon University Center and State System @ Center City or designee by any or all of the following methods:

- a. Text message/email using e2Campus emergency alert notification system
- b. Email to college/university program coordinators and faculty. College/University program coordinators or faculty will notify respective students, as necessary.
- c. Voice message on 267.386.3001.
- d. Notification on the State System @ Center City website: <http://centercity.passhe.edu/>
- e. Notification via the following TV stations:
 - NBC (Channel 10)
 - ABC (Channel 6) • CW (Channel 17)
 - CBS (Channel 3) • Fox (Channel 29)
 - KYW Radio (1060 AM)

Emergency Response and Evacuation Procedures

PASSHE maintains an Emergency Response Plan that outlines responsibilities of campus units during emergencies. This plan outlines incident priorities, campus organization, and specific responsibilities of particular units or positions.

PASSHE Center City campus units are responsible for developing emergency response and continuity of operations plans for their areas and staff. Campus emergency management provides resources and

guidance for the development of these plans. Emergencies occurring on campus should be reported to the Philadelphia Police Department or the Allied Barton Security Company.

In conjunction with other emergency agencies, the PASSHE Center City campus conducts emergency response drills and exercises each year, such as tabletop exercises, field exercises, and tests of the emergency notification systems on campus. These tests, which may be announced or unannounced, are designed to assess and evaluate the emergency plans and capabilities of the institution.

Each test is documented and includes a description of the exercise, the date and time of the exercise, and whether it was announced or unannounced. Lits Building conducts two fire drills that are conducted annually and held two times during the day. The test are held in the Am and PM when conducted.

The campus publicizes a summary of the emergency response and evacuation procedures via email and text notification at least once each year in conjunction with a test (exercise and drill) that meets all of the requirements of the Higher Education Opportunity Act.

How does the PASSHE Center City Campus inform the campus about and immediate threat and what is the PASSHE Center City Campus policy about notifying the campus of an emergency?

The PASSHE Center City Campus Emergency Notification policy dictates that upon receipt of a report of a crime or emergency, the director will determine if the report represents an immediate threat or continuing danger to the campus. In addition to having crimes and other emergencies being reported to the Philadelphia Police Department, reports should be made to PASSHE Center City director.

Should it be determined, by the Director or their designee, that an immediate threat or continuing danger is present the Director or their designee will notify the campus community through an emergency text and/or posted notices throughout the campus. Face to face communication may also be used in the event of an emergency situation.

In the event of an emergency, PASSHE Center City campus will initiate and provide,

System to use	Primary Message Creator	Backup Message Creator	Authority for approving & sending messages	Primary Message Sender/ Distributor	Backup Message Sender/ Distributor
Text Messaging	Executive Director	Clery Compliance Officer	Executive Director	Clery Compliance Officer	Executive Director
Email	Executive Director	Clery Compliance Officer	Executive Director	Clery Compliance Officer	Executive Director
Voice Mail	Executive Director	Clery Compliance Officer	Executive Director	Clery Compliance Officer	Executive Director
Website	Executive Director	Clery Compliance Officer	Executive Director	Clery Compliance Officer	Executive Director

The campus community is encouraged to sign up to receive the emergency texts by registering at: through PASSHE Center City at: <http://www.passhecentercity.org/emergency.php>

without delay, immediate notifications to the appropriate segment(s) of the PASSHE Center City campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students, employee and visitors.

If the Executive Director Joseph Santivasci or designee, in conjunction with other PASSHE Center City campus administrators, local first responders, Public Health Officials and/or the National Weather Service, confirms that there is an emergency or dangerous situation that poses an immediate threat to the health or safety of some or all members of the PASSHE community, the PASSHE Center City and Media Relations will collaborate to determine the content of the message and will use some or all of the systems described below to communicate the threat to the PASSHE Community or to the appropriate segment of the community, if the threat is limited to a particular building or segment of the population.

Those University Officials responsible for making the determination are:

Executive Director Joseph Santivasci, Associate Vice President for Campus Planning and Outreach, Director, WCU Philadelphia Campus

PASSHE Center City campus will, without delay and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the judgment of the first responders (including, but not limited to: the Philadelphia Police Department, and the Local Fire and Emergency Medical Services, compromise the efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

Notification will be made by using some or all of the following methods depending on the type of emergency: PASSHE Center City campus Alert System (which contains email, cell phone text, voice message alert); fire alarm (where available), public address

systems (where available), social media, digital signage (where available), local media, webpage and/or in person communication. If any these systems fail or the PASSHE Center City campus deems it appropriate, in person communication may be used to communicate an emergency.

Post Emergency Communication:

PASSHE Center City Campus Executive Director will issue any follow-up messages, including an “all clear” message to convey the campus’s return to normal operations to the campus via the text message system and postings placed throughout the campus. Details regarding the incident will be communicated on the PASSHE Center City campus’s homepage. The local news media may be utilized to disseminate emergency information to members of the larger community, including neighbors, parents, and other interested parties. The larger community can also access emergency information via the PASSHE Center City campus homepage and/ or social media.

If there is an immediate threat to the health or safety of students or employees occurring on campus, an institution must follow its emergency notification procedures. the institution will provide adequate follow-up information to the campus community as needed using some or all of the communication systems described above. **Everyone is encouraged to become familiar with the evacuation plans that are posted in Mellon Independence Center building.**

If you are advised to evacuate the building by the activation of the fire alarm or verbally by emergency personnel or another building administrator, please vacate immediately. Evacuate from below level and upper floors by using designated stairways and do not use elevators.

If you have special assistance needs, become familiar with the closest “Area of Rescue Assistance” and someone will help you to evacuate. If possible, to do so

safely, take your belongings with you and do not return to the building once you have left for any reason.

Fire and evacuation drills are conducted by the property owner or agent of Mellon Independence Center. The purpose of evacuation drills is to prepare building occupants for an organized evacuation in case of a fire or other emergency. During the drill, occupants practice drill procedures and familiarize themselves with the location of exits and the sound of the fire alarm. In addition to educating the occupants of each building about the evacuation procedures during the drills, the process also provides emergency personnel an opportunity to test the operation of fire alarm system components.

All fire, response and evacuation drills and test are the responsibility of the property owner or agent of Mellon Independence Center.

Shelter-in-Place Procedures – What it Means to “Shelter-in-Place”

If an incident occurs and the buildings or areas around you become unstable, or if the air outdoors becomes dangerous due to toxic or irritating substances, it is usually safer to stay indoors, because leaving the area may expose you to that danger. Thus, to “shelter-in-place” means to make a shelter of the building that you are in, and with a few adjustments this location can be made even safer and more comfortable until it is safe to go outside.

Basic “Shelter-in-Place” Guidance

If an incident occurs and the building you are in is not damaged, stay inside in an interior room until you are told it is safe to come out. If your building is damaged, take your personal belonging (purse, wallet, access card, etc.) and follow the evacuation procedures for your building (close your door, proceed to the nearest exit, and use the stairs instead of

the elevators). Once you have evacuated, seek shelter at the nearest PASSHE Center City campus building quickly. If police or fire department personnel are on the scene, follow their directions.

How You Will Know to “Shelter-in-Place”

A shelter-in-place notification may come from several sources, the Mellon Center Building Security, other PASSHE Center City campus employees, Local PD, or other authorities utilizing the PASSHE Center City campus’ emergency communications tools.

How to “Shelter-in-Place”

No matter where you are, the basic steps of shelter-in-place will generally remain the same. Should the need ever arise, follow these steps, unless instructed otherwise by local emergency personnel:

1. If you are inside, stay where you are. Collect any emergency shelter-in-place supplies and a telephone to be used in case of emergency. If you are outdoors, proceed into the closest building quickly or follow instructions from emergency personnel on the scene.
2. Locate a room to shelter inside. It should be:
 - An interior room;
 - Above ground level; and
 - Without windows or with the least number of windows. If there is a large group of people inside a particular building, several rooms may be necessary.
3. Shut and lock all windows (tighter seal) and close exterior doors.
4. Turn off air conditioners, heaters, and fans.
5. Close vents to ventilation systems as you are able. (PASSHE Center City campus staff will turn off the ventilation as quickly as possible.)
6. Make a list of the people with you and ask someone (hall staff, faculty, or other staff) to call the list in to [CPSA] so they know where you are sheltering. If only students are present, one of the students should call in the list.
7. Turn on a radio or TV and listen for further instructions.
8. Make yourself comfortable.

What is the PASSHE Center City Campus policy for the preparation of the annual security report?

PASSHE Center City campus prepares this report to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. The full text of this report is located on the campus’s web site at www.centercity.passhe.edu. This report is prepared in cooperation with the Philadelphia Police Department, Mellon Independence Center, and the West Chester University Public Safety Department.

The procedures for preparing the annual disclosure of crime statistics include reporting statistics to the PASSHE Center City campus community obtained from the following sources: the PASSHE Center City, the Philadelphia Police Department, and the Allied Barton Security Department. For statistical purposes, crime statistics reported to any of these sources are recorded in the calendar year the crime was reported. A written request for statistical information is made on an annual basis to all Campus Security Authorities (as defined by federal law) and to all PASSHE Center City campus Deans, Directors, and Department Heads.

All of the statistics are gathered, compiled, and reported to the PASSHE Center City campus community via this report, which is published by PASSHE Center City. The Executive Director Joseph Santivasci in conjunction with the West Chester University will publish the annual crime statistics into the Department of Education (ED website). The statistical information gathered by the Department of Education is available to the public through the ED website.

What is the PASSHE Center City Campus policy about security of and access to the campus facilities and programs by students, faculty, staff, and other individuals?

During normal business hours, Mellon Independence Center building security requires identification and purpose of visit prior to entering the elevator or stairwell to gain access to the PASSHE Center City campus. After normal business hours and during breaks, these facilities are locked and only accessible to authorized individuals.

Allied Universal Security conducts routine patrols of the buildings to evaluate and monitor security related matters. Any incidents requir-

ing an investigation are reported immediately to the Philadelphia Police Department.

What type of student housing is available at the PASSHE Center City Campus?

No residential facilities are provided at the campus.

What security considerations does the PASSHE Center City Campus use in the maintenance of campus facilities, including landscaping, grounds-keeping and outdoor lighting?

These areas are the responsibility of the Mellon Independence Center. The Mellon Independence Center contracts unarmed security personnel to provide general building security. Maintenance is also handled through contract services by the building owners.

What is the PASSHE Center City Campus policy on possession, use or sale of alcohol and illegal drugs and unlawful alcohol?

The campus complies with the federal, state, and local laws including those that regulate the possession, use, and sale of alcoholic beverages and other controlled substances. Those who use, sell, exchange, consume, or possess alcoholic beverages, illegal drugs, or drug paraphernalia on PASSHE Center City campus will be dealt with in accordance with the Commonwealth, federal and local laws as well as the individual Universities’ Student Code of Conduct.

PASSHE Center City campus prohibits the unlawful possession, use, and sale of alcoholic beverages and illegal drugs on campus. The Philadelphia Police Department is responsible for the enforcement of state underage drinking laws and enforcement of Federal and State drug laws.

What type of drug and alcohol abuse educational programs are offered at the PASSHE Center City Campus?

No drug or alcohol programing is offered at the PASSHE Center City campus. Students may choose to contact their University’s main campus for the availability of services.

In compliance with the Drug Free Schools and Communities Act, PASSHE Center City campus publishes information regarding the PASSHE Center City campus’ prevention programs related to drug and alcohol abuse prevention which include standards of conduct that

prohibit the unlawful possession, use, and distribution of alcohol and illegal drugs on campus and at institution-associated activities; sanctions for violations of federal, state, and local laws and PASSHE Center City campus policy; a description of health risks associated with alcohol and other drug use and abuse; and a description of available counseling, treatment, rehabilitation and/or re-entry programs for PASSHE students and employees. A complete description of these topics, as provided in the PASSHE Center City campus annual notification to students and employees, is available online at: <https://www.wcupa.edu/services/stu/ramseyevewdrugfreecampus.aspx>.

What are the penalties for those who are criminally charged with the abuse of drugs and alcohol?

Anyone in possession of illegal drugs or paraphernalia can be charged with a misdemeanor or felony offense, depending on the illegal substances found. Penalties for a first offense upon conviction can include fines of no less than \$500 and possible imprisonment up to 15 years.

Anyone who purchases, consumes, possesses, or transports alcoholic beverages while being under the age of 21 can be charged with a summary offense. Penalties upon conviction of a first offense can include fines up to \$300 and will involve the suspension of driving privileges for 90 days. Anyone found to be furnishing alcohol to minors can be charged with a misdemeanor or offense. Penalties upon conviction can include fines of no less than \$1,000.

What is the PASSHE Center City Campus policy on possession and use of weapons by security personnel or others?

Philadelphia Police officers and other law enforcement officials are authorized to carry firearms and are certified in their use on an annual basis. Mellon Independence Center security officers do not carry firearms. Unauthorized persons are prohibited from possessing weapons of any kind on the PASSHE Center City campus property; violators will be subject to criminal prosecution.

What is the PASSHE Center City Campus policy about employees or students with criminal records?

As part of the pre-employment process, Human Resources at West Chester University

will conduct background checks in the form of specific criminal and consumer reporting verifications for all employee recruitments except for work-study students. Conviction of a criminal offense does not bar one from employment in all cases.

Each case is considered individually on its merits. If the University administration discovers that a current employee has been convicted of a criminal offense, the University reserves the right to review the conviction in relation to the employee's current position and, if warranted, take action to either reassign or dismiss the employee. Student criminal records are reviewed by each host University based on their policy. At West Chester University, a student with a criminal record will not in all cases be barred from admission to the University. When an applicant indicates that he or she has a felony conviction, the application is reviewed by the Criminal Convictions Committee and a case-by-case decision is made.

Students who are convicted of a criminal offense after admission are subject to the University's student conduct process. Penalties can range from probation to expulsion, depending on the severity of the offense and whether the student has prior offenses.

What types of programs are offered to educate and prevent sex offenses and what is the PAASSHE Center City Campus policy for reporting these offenses and assisting the victims of reported sex crimes?

No educational or preventive programs are provided at the PASSHE Center City campus. West Chester University provides these programs at its main campus.

All sex offense crimes should be reported to the Philadelphia Police Department (dial 911). For the purposes of Title IX reporting, confidential reports should be made to the PASSHE Center City Campus Director/ Title IX Coordinator (call: 267-386-3003). The Director will provide the information to the participating universities' Title IX coordinators. Participating universities' Title IX coordinators are required under law to complete an investigation for each reported incident. The Director will provide contact information for participating universities victim services, upon request.

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a state-

ment advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteers services or is a student.

► Information regarding registered sex offenders can be found at:

www.pameganslaw.state.pa.us/

What is the PASSHE Center City Campus policy on investigating missing students who reside in on-campus housing?

No residential facilities are provided at PASSHE Center City campus. A missing student policy is not required. Reports of missing students received by the Philadelphia Police Department will result in a police investigation as outlined by the Pennsylvania Title 18 Section 2908(a) Missing Children and 42 U.S.C. 5779(a) Section 3701(a) Suzanne's Law.

Monitoring and Recording of Criminal Activity by Students at Non-campus locations of Recognized Student Organizations

Crime statistics are requested from the Philadelphia Police Department for geographic areas identified as non-campus or public property for inclusion into the PASSHE Center City campus **Annual Security Report**.

The PASSHE Center City Campus does not have officially recognized student organizations that own or control housing facilities outside of the PASSHE core campus. Therefore, the local Police Department is not used to monitor and record criminal activity since there are non-campus locations of student organizations.

PASSHE Center City campus does not use local police to monitor and record criminal activity at non-campus locations of student organizations. The PASSHE Center City campus does not have residential housing for students.

How does the PASSHE Center City Campus report incidents for campus residential facilities?

No residential facilities are provided at PASSHE Center City campus.

How does the PASSHE Center City Campus report incidents for non-campus property?

Statistics for non-campus areas are requested from the Philadelphia Police Department and Mellon Independence Center.

How does the PASSHE Center City Campus report incidents for Public Property?

Statistics for public property areas are requested from the Philadelphia Police Department and Mellon Independence Center.

How does the PASSHE Center City Campus respond to crimes involving bias?

All crimes involving bias should be reported to the Philadelphia Police Department (dial 911). For the purposes of participating universities reporting, reports should also be made to the PASSHE Center City campus Director (call: 267-386-3003). The Executive Director will provide the information to the West Chester University as requested. The Director will provide contact information for West Chester University victim services, upon request.

The Philadelphia Police Department maintains a working relationship with state and local police agencies, including Allied Universal Security Company.

There are no written agreements or memorandums of understanding regarding any topics, including the investigation of criminal incidents, between PASSHE and the Philadelphia Police Department.

SECURITY AWARENESS & CRIME PREVENTION PROGRAMMING

One of the essential ingredients of any successful crime prevention program is an informed public. It is the intent of the PASSHE Center City campus to inform students of good crime prevention and security awareness practices.

Throughout the 2020 calendar year WCU/DPS Due to mitigation efforts associated with the COVID-19 pandemic and the University instructing its students remotely, the Department of Public Safety did not offer any in person crime prevention and awareness programs. During the 2021-2022 Academic Year the Department of Public Safety will once again offer topics such as personal safety, residence hall security, drug and alcohol abuse awareness and sexual assault prevention.

All crime prevention and security awareness programs encourage students and employees to be responsible for their own security and the security of others. Participants in these programs are asked to be alert, security-conscious and involved, and advised to call Philadelphia Police Department to report suspicious behavior. For additional questions regarding crime prevention, contact the department directly at (215-686-3060).

As part of the Department's community-oriented policing philosophy, Philadelphia Police Department offers crime prevention presentations each semester to classrooms, campus clubs, and student groups as requested. Topics of these presentations include personal safety awareness, Rape Aggression Defense (R.A.D.) and property protection strategies. Anyone interested in having an Officer speak to his or her classroom or group should contact them at (215-686-3060).

Notification to Victims of Crimes of Violence

The PASSHE Center City campus will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as the result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

PASSHE CENTER CITY CAMPUS JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT, AS AMENDED BY THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013

Student, employees, prospective students and prospective employees are encouraged to review PASSHE Center City Campus Annual Security Report in addition to their host University's Annual Security Report for additional policy, procedure and training information as required under the Violence against Women Reauthorization Act.

www.passhecentercity.org/docs/cleryCenterCity2019.pdf
<https://www.wcupa.edu/dps/documents/clery19.pdf>

PASSHE Center City campus does not discriminate on the basis of gender in its educational programs and sexual harassment and sexual violence are types of gender discrimination. Other acts can also be forms of gender-based discrimination and are also prohibited, whether sexually based or not, and include dating violence, domestic violence, and stalking. As a result, PASSHE Center City campus issues this statement of policy to inform the community of PASSHE Center City campus comprehensive plan addressing sexual misconduct, educational programs, and procedures that address sexual assault, domestic violence, dating violence, and stalking, whether the incident occurs on or off campus and when it is reported to the PAASSHE Center City campus official. In this context, PASSHE Center City campus prohibits the offenses of domestic violence, dating violence, sexual assault and stalking and reaffirms its commitment to maintain a campus environment

emphasizing the dignity and worth of all members of PASSHE Center City Campus community. For a complete copy of State System@Center City Campus Sexual Assault and Relationship Violence what everyone needs to know, visit: www.centercity.passhe.edu

DEFINITIONS

Below are definitions provided by the Department of Education as well as definitions from the West Chester University Sexual Misconduct Policy.

Department of Education Definitions SEXUAL MISCONDUCT DEFINITIONS

Dating Violence – (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act) includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the Complainant victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (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 covered under the definition of Domestic Violence.

For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting. Dating Violence is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Dating Violence will be categorized as Non-Regulatory.

Domestic Violence – As defined by the Clery Act, A Felony or misdemeanor crime of violence committed—

- A) By a current or former spouse or intimate partner of the victim;
- B) By a person with whom the victim shares a child in common;

- C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
 - E) 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.
- ii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting. Under Pennsylvania law this includes any violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is co-habiting with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under Pennsylvania's domestic or family violence laws or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Pennsylvania

Domestic Violence is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Domestic Violence will be categorized as Non-Regulatory.

Retaliation – Any action, directly or through others, which is aimed to deter a reasonable person from reporting sexual misconduct or participating in an investigation or hearing or action that is done in response to such activities. This includes but is not limited to intimidation, threats, coercion, or discrimination against any individual (A) for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations; or (B) because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Policy. A finding of retaliation under this Policy is not dependent on a

finding that the underlying sexual misconduct occurred.

Sexual Assault – (As defined in the Clery Act) – An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim if incapable of giving consent."

- Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape is defined as sexual intercourse with a person who is under the statutory age of consent. (As defined in the Clery Act) – This includes any sexual act directed against another person, without the Consent of the Complainant, including instances where the Complainant is incapable of giving Consent. Sexual Assault may be one of the following categories:

- A. **Sexual Penetration Without Consent** — Any penetration of the mouth, sex organs, or anus of another person, however slight by an object or any part of the body, when Consent is not present. This includes performing oral sex on another person when Consent is not present.
- B. **Sexual Contact Without Consent** — Knowingly touching or fondling a person's genitals, breasts, buttocks, or anus, or knowingly touching a person with one's own genitals or breasts, when Consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when Consent is not present,

to similarly touch or fondle oneself or someone else.

C. **Statutory Sexual Assault** – The age of consent for sexual activity in Pennsylvania is 16. Minors under the age of 13 cannot consent to sexual activity. Minors aged 13-15 years old cannot consent to sexual activity with anyone who is 4 or more years older than they are at the time of the activity. Minors aged 16 years of age or older can legally consent to sexual activity, as long as the other person does not have authority over them as defined in Pennsylvania’s institutional sexual assault statute³.

Sexual Assault is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Sexual Assault will be categorized as Non-Regulatory.

Sexual Exploitation – Engaging in sexual behaviors directed toward or involving another person or use of another person’s sexuality for purposes of sexual gratification, financial gain, personal gain or personal advantage when Consent is not present. This includes, but is not limited to, the following actions, including when they are done via electronic means, methods or devices:

- A. Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person’s Consent;
- B. Indecent exposure or inducing others to expose private or intimate parts of the body when Consent is not present;
- C. Recording or distributing information, images or recordings of any person engaged in sexual or intimate activity in a private space without that person’s Consent;
- D. Prostituting another individual; or
- E. Knowingly exposing another individual to a sexually transmitted disease or virus without that individual’s knowledge; and
- F. Inducing incapacitation for the purpose of making another person vulnerable to non- consensual sexual activity.

Regulatory Prohibited Conduct – For pur-

poses of this Policy, the term includes the defined violations of Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault and Regulatory Stalking.

Regulatory Quid Pro Quo Sexual Harassment — An Employee conditioning the provision of aid, benefit or service of the University on an individual’s participation in unwelcome sexual conduct.

Non-Regulatory Quid Pro Quo Sexual Harassment — An Official, Volunteer or Student conditioning the provision of aid, benefit or service of the University on the individual’s participation in unwelcome sexual conduct.

Regulatory Hostile Environment Sexual Harassment — Unwelcome conduct, on the basis of sex, that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s Education Program or Activity.

Non-Regulatory Hostile Environment Sexual Harassment — Unwelcome conduct, on the basis of sex, that a reasonable person would determine is sufficiently severe, pervasive, and objectively offensive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from any educational, employment, social or residential program in offered connection with the University.

Stalking – as defined by the Clery Act means 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.

For the purposes of this definition—

- *Course of conduct* means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.
- *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- *Substantial emotional distress* means signif-

icant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Stalking is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Stalking will be categorized as Non-Regulatory.

³ The Pennsylvania Crimes Code can be found at this link: <https://bit.ly/305G9pu>

OTHER DEFINITIONS

Advisor — An individual who may be present to provide support to a Party throughout an investigation and/or hearing.

- A. Advisors may accompany a Party to any meeting or hearing they are required or eligible to attend, but may not speak for the Party, except for the purposes of cross-examination.
 - B. Each party is responsible for coordinating and scheduling with their choice of Advisor.
 - C. The Advisor may be an attorney or a union representative when applicable.
 - D. If a party does not have an Advisor of choice present for a hearing, the University will appoint an Advisor for the limited purposes of conducting cross-examination.
 - E. If a Party does not attend the hearing, the Party’s Advisor may appear and conduct cross- examination on the Party’s behalf.
 - F. If neither a Party nor their Advisor appear at the hearing, the University will provide an Advisor to appear on behalf of the non-appearing Party for the limited purposes of conducting cross- examination.
 - G. The Advisor is not prohibited from having a conflict of interest or bias in favor of or against a Party, nor is the Advisor prohibited from being a Witness in the Sexual Misconduct Resolution Process.
- Appeals Officer** – The individual or individuals with the authority under law or otherwise appointed by the University to decide appeals. The Appeals Officer will be free of conflict of interest and bias, and will

not serve as the Investigator, Title IX Coordinator, Advisor to any Party or a Decision Maker in the same matter.

Complainant – An individual who has reported being or is alleged to be subjected to conduct that could constitute covered sexual misconduct as defined under this Policy.

Consent as defined in the West Chester University Sexual Misconduct policy – A knowing and voluntary agreement to engage in specific sexual activity at the time of the activity communicated through clear actions and/or words that are mutually understood.

In order to be valid, Consent must be active, present and ongoing.

Consent is not present when it is the result of coercion, intimidation, force, or threat of harm.

Consent is not present when an individual is incapacitated due to alcohol, drugs, or sleep, or otherwise without capacity to provide Consent due to intellectual or other disability or other condition. Consent can be withdrawn at any time and consent to one form of sexual activity is not necessarily consent to other forms of sexual activity.

When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication.

When drug use is involved, incapacitation is a state beyond being under the influence of or impaired by the use of the drug. Alcohol and other drugs impact each individual differently. Determining whether an individual is incapacitated requires an individualized determination. When determining whether a person has the capacity to provide Consent, the University will consider whether a sober, reasonable person in the same position knew or should have known that the other party could or could not consent to the sexual activity.

When determining whether Consent has been provided, all the circumstances of the relationship between the parties will be considered. The definition of consent under the criminal statutes of the Commonwealth of Pennsylvania can be found in Appendix F.

Decision Maker – The individual or individuals appointed by the University to render a decision on a Formal Complaint that goes to a hearing. Also known as Hearing Officer. The Decision Maker(s)/Hearing Officer(s) will be free of conflict of interest and bias, and will not serve as the Investigator, Title IX Coordinator, an Advisor to any Party or Appeals Officer in the same matter.

Disciplinary Sanction — The penalty imposed on an individual for violating this Policy. For Students, Disciplinary Sanctions are subject to applicable University/System policies, up to and including expulsion from the University. For Employees, Disciplinary Sanctions are subject to applicable collective bargaining agreement or University/System policies, up to and including separation from employment. For Officials or Volunteers, this may include the removal or the request for removal of the Official or Volunteer from their respective position.

Education Program or Activity – For purposes of this Policy, the term “Education Program or Activity” includes any activity that occurs in, on or within:

- A. Any on-campus premises;
- B. Any off-campus premises the University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization or a recognized affiliated entity.
- C. Computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University’s programs and activities over which the University has substantial control.

Employee — An individual who is employed by the State System (either at a State System University or in the Office of the Chancellor) including, but not limited to, faculty members, coaches, staff, managers and student employees.

Final Rule – The Final Rule issued on May 19, 2020 by the U.S. Department of Education under Title IX of the Education Amendments of 1972

Formal Complaint — means a document, including an electronic submission, filed by a Complainant with a signature or other indication that the Complainant is the person filing the Formal Complaint, or signed by the Title IX Coordinator, alleging sexual misconduct against a Respondent and requesting initiation of the process set forth in this Policy to investigate the allegation of sexual misconduct.

Hearing Officer – A University employee or graduate student who is appointed by the University, trained and authorized to with the information presented in a conduct meeting or University hearing. The Hearing Officer, referred to as the Decision Maker(s)/Hearing

Officer(s) will be free from conflict of interest and bias, and will not serve as the Investigator, Title IX Coordinator, Advisor to any Party or Appeals Officer in the same matter.

Investigator — The Title IX Coordinator or the individual designated by the Title IX Coordinator to perform an investigation under this Policy. The Investigator may not have a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general. The Investigator may not serve as a Decision Maker, Appeals Officer or Advisor to any Party in the same matter.

Notice of Allegations – The written notice the Title IX Coordinator or designee is required to provide to the Parties following receipt of a Formal Complaint. See Notice of Allegations section below.

Notice of Hearing – The written notice required to be provided to the Parties prior to the hearing. See Notice of Hearing section below.

Official — A member of a Council of Trustees or of the Board of Governors or their respective designees.

Parties or Party — A term that refers to the Complainant and the Respondent collectively or the Complainant or Respondent individually.

Respondent — Any individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct as defined under this Policy.

Student – Any person: (1) seeking admission to the University through the formal University application process; (2) admitted to the University, (3) eligible to register or schedule for classes, or

(4) living in University or University-affiliated residence halls even though they are not enrolled at the University. The term “Student” shall include Employees, Volunteers and Officials where the Employee, Volunteer or Official otherwise meets the enrollment criteria set forth in this definition.

Supportive Measures — Non-disciplinary and non-punitive individualized services designed to restore or preserve access to the University’s Education Programs or Activities without unduly burdening the other Party. Supportive Measures will be offered, as appropriate, to the Complainant or the Respondent, regardless of whether a Formal Complaint is filed. Supportive Measures may

include, but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties (no contact orders), changes in work or housing locations, leaves of absence, and increased security and monitoring of certain areas of the campus.

Support Person – Optional in cases of harm and/or sexual misconduct is a person who may be present to provide support to a Party when submitting a report, meetings related to the process and hearings. This person does not participate in any proceeding, nor advise a Party or be a witness in a matter.

Title IX Coordinator – The individual designated by the University with assistance of the Deputy Title IX Coordinators, to coordinate the University’s compliance with Title IX and VAWA and to respond to reports of violations. The Title IX Coordinator may not have a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general. The Title IX Coordinator may serve as the Investigator of a Formal Complaint. The Title IX Coordinator may serve as the Investigator of a Formal Complaint for Formal Complaints against Respondents who are Employees. The Title IX Coordinator may not serve as a Decision Maker/Hearing Officer or Appeals Officer.

Volunteer — A recognized volunteer or any individual who represents or acts on behalf of the university or whose actions may bind the university, regardless of whether the individual receives monetary or other compensation. For purposes of this Policy, employees and officials of recognized affiliated entities, ROTC instructors, visiting professors and unpaid camps and conference personnel will be considered volunteers.

Witness – A person who has knowledge related to specific aspects of a case and may have reported such aspects to the institution.

► **Definitions of terms as defined by the Pennsylvania State Criminal Statutes are found in Appendix C**

EDUCATION AND PREVENTION PROGRAMS PASSHE CITY CENTER

PASSHE Center City campus does not currently have any education and prevention programs available. For education and prevention programs students should see The West Chester University programs for information.

EDUCATION AND PREVENTION PROGRAMS WCU

West Chester University engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault and stalking that:

1. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome and;
2. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students, new employees, and ongoing awareness and prevention campaigns for students and employees that:

1. West Chester University prohibits the crimes of domestic violence, dating violence, sexual assault and stalking as defined by the Clery Act;
2. Uses definitions provided both by the Department of Education and state law behavior constitutes domestic violence, dating violence, sexual assault, and stalking;
3. Defines that behavior and actions that constitute consent to sexual activity in the State of Pennsylvania and using the definition of consent found in the Student Code of Conduct and the purpose for which that definition is used;
4. Provides a description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm, including a risk of dating violence, domestic violence, sexual assault, or stalking.
5. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
6. Defines risk reduction as options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.
7. Information regarding:
 - a. Procedures victims should follow if a crime of domestic violence, dating violence, sexual assault and stalking occurs;
 - b. How the institution will protect the privacy of victims and other necessary parties;
 - c. Existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;
 - d. Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective; and;
 - e. Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.

The University has developed an annual educational campaign consisting of presentations that include distribution of educational materials to new students. The requirement for new students to complete an on-line education module with a focus on sexual misconduct (policy, resources and reporting information); participating in and presenting information and materials during new employee orientation: and engaging in ongoing awareness activities with all employees and students.

West Chester University offered the following primary prevention and awareness programs for all incoming students in 2020:

NAME OF PROGRAM: Responsible Rams™ (Online Orientation Module)

DATES HELD: 8/12–9/30

LOCATION HELD: online module (D2L)

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking.

West Chester University offered the following primary prevention and awareness programs for all new employees in 2020:

NAME OF PROGRAM: Sexual Misconduct Prevention & Response/ODEI Overview – New Faculty Orientation

DATES HELD: 8/11

LOCATION HELD: online

PROHIBITED BEHAVIOR COVERED: 32 attendees

West Chester University offered the following ongoing prevention and awareness programs for employees in 2020:

NAME OF PROGRAM: Title IX New Regulations Open Forum / Town Hall

DATES HELD: 10/28

LOCATION HELD: online (Zoom Webinar)

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking

NAME OF PROGRAM: Sexual Harassment Prevention

DATES HELD: 1/13/20, 10/20/20

LOCATION HELD: virtual via zoom

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking

NAME OF PROGRAM: Sexual Misconduct Prevention & Response/ODEI Overview

DATES HELD: 7/29

LOCATION HELD: zoom

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking.

West Chester University offered the following ongoing prevention and awareness programs for students in 2020:

NAME OF PROGRAM: Title IX New Regulations Open Forum / Town Hall

DATES HELD: 10/28

LOCATION HELD: online (Zoom Webinar)

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking.

NAME OF PROGRAM: Sexual Misconduct Policy and Procedures

DATES HELD: 9/14, 9/24, 9/30, 10/16

LOCATION HELD: virtual zoom trainings

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking

NAME OF PROGRAM: Sexual Misconduct Prevention & Response/ODEI Overview

DATES HELD: 8/19

LOCATION HELD: zoom

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking

NAME OF PROGRAM: Sexual Misconduct Prevention & Response/ODEI Overview

DATES HELD: 8/25

LOCATION HELD: zoom

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking

NAME OF PROGRAM: Sexual Misconduct Prevention & Response

DATES HELD: 8/25

LOCATION HELD: zoom

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking

NAME OF PROGRAM: Sexual Misconduct Prevention & Response – Athletes, online course prepared by ODEI

DATES HELD: due by end of fall semester 2020

LOCATION HELD: zoom

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking

NAME OF PROGRAM: Prevention & Response – ADP (Academic Development Program) Peer Assistants (student employees)

DATES HELD: 10/2

LOCATION HELD: zoom

PROHIBITED BEHAVIOR COVERED:

Domestic Violence, Dating Violence, Sexual Assault and Stalking

PROCEDURES FOR REPORTING A COMPLAINT

PASSHE Center City campus has procedures in place that are sensitive to those who report sexual assault, domestic violence, dating violence, and stalking. This includes informing individuals about their right to file criminal charges, as well as the availability of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services on and/or off campus. In addition, remedies to prevent contact between a complainant and an accused party, such as academic, transportation and working accommodations, may be provided if reasonably available. PASSHE

Center City campus will make such accommodations, if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to the Philadelphia Police Department. Students, employees, and third parties should contact the Title IX Coordinator, Lynn Klingensmith Office of Diversity, Equity and Inclusion at (610) 436-2513 lklingensmith@wcupa.edu

Students and employees should know that reporting to the Title IX Coordinator means that PASSHE Center City campus has a duty to assess the information provided and

may have to investigate the complaint or otherwise determine what happened. PASSHE Center City campus would like the consent of the complainant to be able to move forward with investigating and resolving the complaint, but there are times when the safety of the greater community outweighs the victim's request for confidentiality. Hence, when an employee or student reports to the Title IX Coordinator or any other responsible employee, the information will be kept as private as possible but cannot be guaranteed to be confidential.

Procedures Victims Should Follow if a Crime of Domestic Violence, Dating Violence, Sexual Assault and Stalking Occurs

After an incident of sexual assault, dating violence, or domestic violence, the complainant should consider seeking medical attention as soon as possible at the direction of the Philadelphia Police department investigator. In Pennsylvania, forensic evidence may be collected from the body of a victim even if the individual chooses not to make a report to law enforcement. A forensic exam is conducted by a sensitive and highly trained SANE nurse (Sexual Assault Nurse Examiner) and students and employees may go directly to Chester County Hospital to access this service. It is important that a survivor of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours. The evidence may be preserved that may assist in proving that the alleged criminal offense occurred/or is occurring or may be helpful in obtaining a protection order. In circumstances of sexual assault, if complainants 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. Survivors of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful for a Title IX investigation, University hearing boards or police.

Involvement of Law Enforcement and Campus Authorities

Although the University strongly encourages all members of its community to report violations of this policy to law enforcement, it is the complainant's choice whether or not to make such a report and complainants have the right to decline involvement with the police. The University will assist any complainant with notifying local police if they so desire, the responsibility will be assigned to Philadelphia Police Department investigator assigned to the investigation.

To report an incident that occurred on campus, employees and students should contact the Philadelphia Police department

by dial 911 or contact the police in the area where the assault took place. Criminal charges can be filed against any type of perpetrator, including non-University members. Criminal charges of sexual assault are entirely separate from violations of the Student Code of Conduct, which only applies to West Chester University students. Filing a formal report with the police is necessary when a complainant would like to initiate a criminal investigation by the police. Perpetrators can receive punishment up to and including jail time. Anyone who has been sexually assaulted may choose to pursue both criminal prosecution and University disciplinary processes. The following local Police Department may be contacted, the Philadelphia Police Department at (215) 686-Tips or by dialing 911.

Reporting Incidents of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Any individual, including a third party, may make a report concerning sexual misconduct. Complainants and third-parties are encouraged to report sexual misconduct as soon as possible to allow the University to respond promptly and effectively.

The Title IX Coordinator (or designee) has authority to institute corrective measures for reports of alleged violations of this Policy. Mandated reports to the Title IX Coordinator by Officials, Volunteers and Employees shall not automatically result in corrective measures being instituted. Individuals are encouraged to report sexual misconduct directly to the Title IX Coordinator, through the University's electronic and anonymous reporting systems or by filing a Formal Complaint.

1. Reports to the Title IX Coordinator

Any person may report sex discrimination, including sexual misconduct (whether or not the person reporting is the person alleged to be the person subjected to conduct that could constitute sex discrimination or sexual misconduct), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Name: Lynn Klingensmith, Esq.
Title: Director for Equity and Compliance,
West Chester University
Office Address: 114 W. Rosedale Avenue
Email Address: lklingensmith@wcupa.edu
Telephone Number: 610-436-2433

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

The University's Title IX Coordinator is trained to work with individuals who report sexual misconduct and have knowledge about resources and services, both on and off campus, including the availability of Supportive Measures.

If a report of misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely warning to the community to protect the health or safety of the community. The timely warning will not include any identifying information about the Complainant.

PLEASE NOTE: Title IX Coordinators are not a confidential source of support. While they will address matters reported with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. To speak with an individual designated as having confidentiality, please contact Student Health Services, Counseling & Psychological Services Center or the West Chester University Community Mental Health Center.

PLEASE ALSO NOTE: Making a report is different from filing a Formal Complaint (see the section titled Filing a Formal Complaint). A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator or designee by any person. A report may be accompanied by a request for (1) Supportive Measures; (2) no further action; (3) filing a Formal Complaint a request to initiate an informal resolution process; and/or (4) a request to initiate an informal resolution process after filing a Formal Complaint. Filing a Formal Complaint initiates the University's formal investigation process. (See Sexual Misconduct Resolution Process).

2. Electronic and Anonymous Reporting

You may also file a report about sexual misconduct using the appropriate links below. While anonymous reports are accepted, the University's ability to address misconduct reported anonymously is significantly limited.

Individuals may use this Sexual Misconduct Reporting Form to electronically file a report of sexual misconduct with the University.

Individuals may also file a report electronically by email to: tix@wcupa.edu

Additionally, paper copies can be downloaded from the site or by visiting any of the offices listed in the On-Campus Resources section of the policy. Paper copies of the form via campus or postal mail should be directed to Lynn Klingensmith, Director for Equity and Compliance/Title IX, 114 West Rosedale Ave, West Chester University, West Chester, PA 19383.

The Sexual Misconduct Incident Report Form is used to collect statistical information, which must be passed along to campus law enforcement for publication in the annual Campus Security Report as required by the Jeanne Clery Act. Such information helps to provide the community with a clear picture of the extent and nature of campus crime in order to ensure greater safety. No names or other personally identifying information is used in the Campus Security Report, which can be found on the Department of Public Safety website at www.wcupa.edu/dps/.

The Sexual Misconduct Incident Report Form can be completed by a student, staff, faculty, community member, parent, or anyone with information to report. Those who have been identified as Campus Security Authorities (CSAs) should not fill out the Sexual Misconduct Incident Report Form. Instead, CSAs are required to submit an online Clery Act Report www.wcupa.edu/Login.aspx?ReturnUrl=%2fcsa. If you have any questions about Campus Security Authorities (CSAs) or the Clery Act Report, please contact the Director of Public Safety at 610-436-3478.

Anonymous reports are used to collect information on instances of sexual misconduct. The information is useful for assessing the danger the incident represents to the community at large. In addition, information is also used for assessment purposes to ensure that West Chester University is maintaining a campus climate that is safe and supportive and providing adequate resources for students.

The University has a legal obligation to investigate anonymous reports of sexual misconduct to the extent feasible. It is not usually possible to conduct a formal investigation of anonymous reports of sexual misconduct, or in situations where a complainant requests confidentiality, or when a person making a report asks that the complaint not be pursued;

however, the University has a responsibility to take action to prevent misconduct.

In the event of anonymous reports of sexual misconduct, or if the person making the report asks that the complaint not be pursued, the Director for Equity and Compliance/Title IX Coordinator will take all reasonable steps to investigate and respond to the complaint consistent with the request.

3. Filing a Formal Complaint

The timeframe for the Sexual Misconduct Resolution Process under this Policy begins with the filing of a Formal Complaint and will be concluded within a reasonably prompt manner, and usually no longer than 90 days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, as set forth more fully in the Continuances and Granting Extensions section. Appeals may extend the timeframe for resolution.

To file a Formal Complaint, a Complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged.

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. The University will inform the Complainant of this decision in writing, and the Complainant need not participate in the process further, but will receive all notices issued under this Sexual Misconduct Resolution Process. PLEASE NOTE: The Title IX Coordinator does not lose impartiality solely due to signing a Formal Complaint.

A Complainant who files a Formal Complaint may elect, at any time, to address the matter through the Informal Resolution Process (see the Informal Resolution section below).

4. Criminal Reporting Options

A Complainant may also seek to initiate a criminal complaint, independent of or parallel with any report made to the University.

West Chester University Police Department Peoples Building, 690 S. Church Street West Chester, PA 19383 610-436-3311 or X3311

WCU Police Department can assist in contacting the appropriate police department where the incident took place.

PLEASE NOTE: *The University's policy, definitions, and burden of proof may differ from Pennsylvania criminal law. Neither law*

enforcement's decision whether to prosecute, nor the outcome of any criminal prosecution, is determinative of whether sexual misconduct has occurred under this Policy. In cases where there is a simultaneous law enforcement investigation, there may be circumstances when the University may need to temporarily delay its investigation while law enforcement gathers evidence. However, the University will generally proceed with Formal Complaint even during the time of a pending law enforcement investigation.

The University may not be informed of reports made with law enforcement agencies.

5. External Reporting Options

A person may also file a complaint with the U.S. Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by calling 1-800-421-3481 : 1-877-521-2172 TTY or emailing OCR.Philadelphia@ed.gov or visiting <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

A person may also file a complaint with the Pennsylvania Human Relations Commission by calling 717- 787-9780 for the Harrisburg Regional Office; 412-565- 5395 for the Pittsburgh Regional Office; or 215- 560-2496 for the Philadelphia Regional Office; or by visiting <https://www.phrc.pa.gov/Pages/default.aspx>.

Employees may also file a charge with the Equal Employment Opportunity Commission regarding an alleged violation of Title VII by calling 1-800-669-4000 or visiting <https://www.eeoc.gov/employees/howtofile.cfm>.

The University may not be informed of reports made with external agencies.

6. Truthfulness

All participants in the reporting and resolution processes have the responsibility to be truthful with the information they share at all stages of the process. A report of a violation under this Policy is not considered a bad faith report merely because the evidence does not ultimately support the allegation. Individuals are prohibited from knowingly making a false report, filing a false Formal Complaint or making misrepresentations. If an investigation results in a finding that a person has willfully filed a bad faith report, filed a false Formal Complaint or made misrepresentations as part of the reporting or resolution process, the person may be subject to appropriate Disciplinary Sanctions under the Code of Conduct in the case of Students or other

relevant University policy and collective bargaining agreements in the case of Officials, Employees or Volunteers.

7. Multiple Party Complaints

The Title IX Coordinator may consolidate Formal Complaints involving multiple parties where the allegations of sexual misconduct arise from the same facts or circumstances; in such consolidated matters, the Sexual Misconduct Resolution Process applies to more than one Complainant and/or more than one Respondent, but each party is still an “individual” and not a group or organization. The decision of the Title IX Coordinator to consolidate Formal Complaints is not subject to appeal.

UNIVERSITY REPORTING OBLIGATIONS

1. Mandated Reporting Obligations of University Officials, Volunteers and Employees

All University Officials, Volunteers and Employees (including student employees) are obligated to report incidents of sexual misconduct of which they become aware to the Title IX Coordinator/designee, unless:

1) they serve in a role that makes such reports privileged or are recognized as providing a confidential resource (see Statement on Privacy and Confidentiality); or 2) they are a faculty member and learn of the report from a student during a classroom discussion, in a writing assignment for a class, or as part of a University-approved research project.

PLEASE NOTE: *These reporting exceptions do not apply to reports of sexual misconduct involving an individual who was, or is, a child (a person under 18 years of age) when the abuse allegedly occurred. When a report involves suspected abuse of a child (an individual under the age of 18 at the time of the incident(s) as reported), all the University Employees, Officials and Volunteers are required to notify the University police and the ChildLine run by the Pennsylvania Department of Human Services (1-800-932- 0313). All other members of the University community are strongly encouraged to report suspected child abuse to law enforcement or the ChildLine.*

University Employees designated as Campus Security Authorities (CSAs) under the Clery Act are required to report certain crimes for federal statistical reporting purposes.

2. University Obligations Regarding Timely Warnings

Parties reporting Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking should be aware that under the Clery Act, the University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. If a report of sexual misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the Complainant.

JURISDICTION AND DISMISSALS

In certain circumstances where violations defined under the Final Rule as Regulatory Prohibited Conduct (Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault and Regulatory Stalking) do not meet jurisdictional requirements, the University must dismiss those allegations contained in the Formal Complaint.

In certain circumstances the Title IX Coordinator may dismiss a Formal Complaint, or any specific allegations raised in the Formal Complaint at any time during the investigation or hearing.

Any Party may appeal a dismissal determination. See the Determining Jurisdiction and Mandatory

Dismissal for Certain Allegations under the Sexual Misconduct Resolution Process Section for more information.

Reports of all domestic violence, dating violence, sexual assault and stalking made to the Department of Public Safety will automatically be referred to the Title IX Coordinator regardless of if the complainant chooses to pursue criminal charges. The University will provide resources (on campus, off campus or both), to include medical, health, counseling, legal assistance, victim advocacy and visa and immigration assistance. For persons who have been survivors of sexual assault, domestic violence, dating violence, or stalking, the University will apply appropriate disciplinary procedures to those who are found responsible for violations of the Sexual Misconduct Policy.

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 complainant chooses not to make a complaint regarding an incident, he or she nevertheless should consider speaking with Public Safety or other law enforcement to preserve evidence. Evidence shall be collected in the event the complainant changes her/his mind at a later date to assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protection order.

If a report of domestic violence, dating violence, sexual assault or stalking is reported to the University, below are the procedures that the University will follow as well as a statement of the standard of evidence that will be used during any student conduct hearing on campus arising from such a report:

- The procedures set forth below are intended to afford a prompt response to charges of sexual assault, domestic or dating violence, and stalking, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.
- In all disciplinary proceedings involving allegations of sexual assault, dating violence, domestic violence and stalking, the University utilizes the preponderance of the evidence standard.

Survivors of domestic violence, dating violence, sexual assault, or stalking, are advised to report the incident promptly to the Title IX Coordinator, by submitting the report on-line @ (www.wcupa.edu/sexualmisconduct). Contact can also be made by calling, writing, or coming into the office located at 114 West Rosedale Avenue to report in person and to campus police located at the Peoples Building (if the complainant so desires.) Reports of all domestic violence, dating violence, sexual assault and stalking made to the Department of Public Safety will automatically be referred to the Title IX Coordinator regardless of if the complainant chooses to pursue criminal charges. The University will provide resources (on campus, off campus or both), to include medical, health, counseling, legal assistance, victim advocacy and visa and immigration assistance. For persons who have been

survivors of sexual assault, domestic violence, dating violence, or stalking, the University will apply appropriate disciplinary procedures to those who are found responsible for violations of the Sexual Misconduct Policy.

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 complainant chooses not to make a complaint regarding an incident, he or she nevertheless should consider speaking with Public Safety or other law enforcement to preserve evidence. Evidence shall be collected in the event the complainant changes her/his mind at a later date to assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protection order.

If a report of domestic violence, dating violence, sexual assault or stalking is reported to the University, below are the procedures that the University will follow as well as a statement of the standard of evidence that will be used during any student conduct hearing on campus arising from such a report:

- The procedures set forth below are intended to afford a prompt response to charges of sexual assault, domestic or dating violence, and stalking, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of this policy.
- In all disciplinary proceedings involving allegations of sexual assault, dating violence, domestic violence and stalking, the University utilizes the preponderance of the evidence standard.

Local Police Agency

Philadelphia Police Department
750 Race Street
Philadelphia, PA 19160
610-686-Tips/911

SUPPORTIVE MEASURES PROVIDED FOR SEXUAL ASSAULT, STALKING, DATING VIOLENCE AND DOMESTIC VIOLENCE

If requested, WCU will provide complainant with access to medical care.

- WCU will assess immediate safety needs of complainant.
- WCU will assist the complainant to report a SEXUAL ASSAULT/RAPE to the West Chester University Department of Public Safety, the Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested.
- WCU will provide complainant with information regarding on and off campus services/providers.
- WCU will assess the need to implement interim or emergency removal, such as housing changes, change in class schedule, “No Contact/Stay Away” directives between both parties if reasonably available.
- WCU will provide “No Trespass” directives or an “Emergency Removal” to the respondent, if deemed appropriate.
- WCU will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints.
- WCU will receive input from the complainant on their desire to move forward to investigate sexual misconduct allegations and refer policy violations to Student Conduct or Human Resources for the appropriate student conduct/personnel process.
- WCU will inform the complainant and respondent of the outcome of the student conduct process.
- WCU will enforce the Retaliation Policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for the filing of a sexual misconduct complaint.
- WCU will provide simultaneous notice to both parties regarding both the submission and outcome of an appeal. The standard of evidence used is preponderance of the evidence, therefore, a decision of responsibility will be based upon presented evidence sufficient to

make a reasonable person believe that it was more likely than not a student is in violation of University policy.

Stalking

- WCU will assess immediate safety needs of complainant.
- WCU will assist the complainant to report STALKING to the West Chester University Department of Public Safety, the Office of Student Conduct, the Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested.
- WCU will provide complainant with information regarding on and off campus services/providers.
- WCU will assess the need to implement interim or supportive measures, such as housing changes, change in class schedule, “No Contact/Stay Away” directives between both parties if reasonably available.
- WCU will provide “No Trespass” directives or an “Emergency Removal” to the respondent, if deemed appropriate.
- WCU will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints.
- WCU will receive input from the complainant on their desire to move forward to investigate sexual misconduct allegations and refer policy violations to Student Conduct or Human Resources for the appropriate student conduct/personnel process.
- WCU will provide both the respondent and complainant an opportunity to review the investigation report prior to a hearing.
- WCU will inform the complainant and respondent of the outcome of the student conduct process.
- WCU will enforce the Retaliation Policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for the filing of a sexual misconduct complaint.
- WCU will provide simultaneous notice to both parties regarding both the submission and outcome of an appeal.

Dating Violence

- WCU will assess immediate safety needs of complainant.
- WCU will assist the complainant to report DATING VIOLENCE to the West Chester University Department of Public Safety, the Office of Student Conduct, Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested.
- WCU will provide complainant with information regarding on and off campus services and providers.
- WCU will assess the need to implement interim or supportive measures, such as housing changes, change in class schedule, “No Contact/Stay Away” directives between both parties if reasonably available.
- WCU will provide “No Trespass” directives or an “Emergency Removal” to the respondent, if deemed appropriate.
- WCU will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints.
- WCU will receive input from the complainant on their desire to move forward to investigate sexual misconduct allegations and refer policy violations to Student Conduct or Human Resources for the appropriate student conduct/personnel process.
- WCU will receive input from the complainant on their desire to move forward with Student Code of Conduct charges and/or appropriate personnel hearing.
- WCU will inform the complainant and respondent of the outcome of the student conduct process.
- WCU will enforce the Retaliation Policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination.
- West Chester University will provide simultaneous notice to both parties regarding both the submission and outcome of an appeal.

Incident Being Reported:

Procedure the PASSHE Center City campus (PASSHECC) will follow:

The investigative procedures set by the Philadelphia Police Department and/or the Title IX Coordinator.

Sexual Assault

Depending on when reported PASSHECC will provide complainant with access to medical care.

PASSHECC will assess immediate safety needs of complainant.

PASSHECC will assist the complainant to report a SEXUAL ASSAULT/RAPE to the Philadelphia Police Department, Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested.

PASSHECC will provide complainant with information regarding on and off campus services/providers.

PASSHECC will assess the need to implement interim or long-term protective measures, such change in class schedule, “No Contact/Stay Away” directives between both parties if reasonably available.

PASSHECC will provide “No Trespass” directives or an “Emergency Removal” to the respondent, if deemed appropriate.

PASSHECC will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints.

PASSHECC will receive input from the complainant on their desire to move forward with Student Code of Conduct charges and/or participate in a hearing.

PASSHECC will inform the complainant and respondent of the outcome of the student conduct process.

PASSHECC will enforce the retaliation policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination.

PASSHECC will provide simultaneous notice to both parties regarding both the submission and outcome of an appeal. The standard of evidence used is preponderance of the evidence therefore, a decision of responsibility will be based upon presented evidence sufficient to make a reasonable person believe that it was more likely than not a student is in violation of PASSHECC policy

Stalking

PASSHECC will assess immediate safety

needs of complainant.

PASSHECC will assist the complainant to report STALKING to the Philadelphia Police Department, Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested.

PASSHECC will provide complainant with information regarding on and off campus services/providers.

PASSHECC will assess the need to implement interim or long-term protective measures, such as change in class schedule, “No Contact/Stay Away” directives between both parties if reasonably available.

PASSHECC will provide “No Trespass” directives or an “Emergency Removal” to the respondent, if deemed appropriate.

PASSHECC will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints

PASSHECC will receive input from the complainant on their desire to move forward with Student Code of Conduct charges and/or participate in a hearing

PASSHECC will provide both the respondent and complainant an opportunity to review the investigation report prior to a hearing.

PASSHECC will inform the complainant and respondent of the outcome of the student conduct process.

- PASSHECC will enforce the retaliation policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination

PASSHECC will provide simultaneous notice to both parties regarding both the submission and outcome of an appeal Preponderance of the evidence

Dating Violence

PASSHECC will assess immediate safety needs of complainant.

PASSHECC will assist the complainant to report DATING VIOLENCE to the Philadel-

phia Police Department, Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested.

PASSHECC will provide complainant with information regarding on and off campus services/providers.

PASSHECC will assess the need to implement interim or long-term protective measures, such as change in class schedule, “No Contact Stay Away” directives between both parties if reasonably available.

PASSHECC will provide “No Trespass” directives or an “Emergency Removal” to the respondent, if deemed appropriate.

PASSHECC will provide a copy of the Sexual Misconduct Policy to the complainant regarding the policy for reporting and addressing complaints.

PASSHECC will receive input from the complainant on their desire to move forward with Student Code of Conduct charges and/or participate in a hearing.

PASSHECC will inform the complainant and respondent of the outcome of the student conduct process.

PASSHECC will enforce the retaliation policy of the Sexual Misconduct Policy and take immediate and separate action against

parties that retaliate against a person for complaining of sex-based discrimination

Domestic Violence

- PASSHECC will assess immediate safety needs of complainant.
- PASSHECC will assist the complainant to report Domestic Violence to the West Chester University Department of Public Safety the Office of Student Conduct, Title IX Coordinator, and/or local police for adjudication in both or either jurisdiction if requested.
- PASSHECC will provide complainant with information regarding on and off campus services/providers.
- PASSHECC will assess the need to implement interim or supportive measures, such as housing changes, change in class schedule, “No Contact/Stay Away” directives between both parties if reasonably available.
- PASSHECC will provide “No Trespass” directives or an “Emergency Removal” to the respondent, if deemed appropriate.
- PASSHECC will provide a copy of the Sexual Misconduct Policy to the

complainant regarding the policy for reporting and addressing complaints.

- PASSHECC will receive input from the complainant on their desire to move forward to investigate sexual misconduct allegations and refer policy violations to Student Conduct or Human Resources for the appropriate student conduct/personnel process.
- PASSHECC will receive input from the complainant on their desire to move forward with Student Code of Conduct charges and/or appropriate personnel hearing. • PASSHECC will provide both the respondent and complainant an opportunity to review the investigation report prior to a hearing. • PASSHECC will inform the complainant and respondent of the outcome of the student conduct process.
- PASSHECC will enforce the Retaliation Policy of the Sexual Misconduct Policy and take immediate and separate action against parties that retaliate against a person for complaining of sex-based discrimination. • PASSHECC will provide simultaneous notice
- to both parties regarding both the submission and outcome of an appeal

Frequently asked questions regarding PFAs

What is abuse?

Under the Protection from Abuse Act, abuse is defined as any of the following:

Attempting to, intentionally or recklessly causing bodily injury, rape, spousal sexual assault, or nonconsensual intercourse with or without a deadly weapon.

Placing another, by physical threat, in fear of imminent serious bodily injury.

False imprisonment.

Physically or sexually abusing minor children.

Stalking a person and placing that person in reasonable fear of bodily injury.

* The Act does not cover emotional, verbal, or mental abuse.

Who can file for protection under the act?

You can file for protection if the person who has or is trying to harm you is or was your spouse, is or was living with you in a common-law marriage, is the parent of your child, is your child, is your parent, is your sexual intimate partner, is directly related to you by blood. If the abused person is a minor, then a parent, adult household member or guardian can file on behalf of the child.

Is there a cost to file a Protection from Abuse order?

Yes. There are costs that must be eventually paid when you file a protection from abuse order with the court. You will not have to pay any fees at the time of filing. However, at the time of the hearing the court will order either the alleged assailant to pay the costs, you pay the costs, the costs to be split by both parties. If you are successful and the court grants you the protection from abuse order, the costs are usually placed upon the alleged assailant. The court costs must be paid even if you choose to withdraw your petition and decide not to proceed with the case. If you do not appear at your scheduled hearing your case will be dismissed, and the court will hold you responsible for all costs.

How and where do I file for a Protection from Abuse order?

If you are represented by counsel in any domestic relations matter (i.e. divorce, custody, support), you should contact your attorney for legal advice. However, if you do not have a lawyer, you must appear in person at the Family Court located 34 South 11th Street Room B-15 Philadelphia, PA. (215) 686-3511. There are no attorneys on staff to provide legal advice for you; the PFA Coordinator will assist you in filing the paperwork that is needed. The PFA Coordinator may not give you legal advice. You must be abused (read definition above) in order to qualify for the PFA. The coordinator will assist you in completing the necessary paperwork and will

explain the remedies to you under the PFA Act. After completing the paperwork, the coordinator will present your petition to the judge on your behalf. You may visit Family Court to file for a Protection from Abuse Order. Protection orders can be filed Monday through Friday 8:30a.m. to 5:00p.m. Or visit the Criminal Justice Center Monday through Friday from 5:00p.m. to 8:30a.m. Please take into consideration that the filing procedure for the protection from abuse order is a lengthy process lasting anywhere between 2-3 hrs.

What should I bring with me when I go to file a Protection from Abuse order?

Please come prepared with the following information:

- Names (all persons and parties)
- Date of birth (all persons and parties)
- Social security numbers (all persons and parties)
- Address where the person may be found (including places that they frequent)
- Any documentation relating to the case (i.e. medical reports, police reports, or photographs) photograph of alleged assailant
- Vehicle make, model, style, and license plate number of alleged assailants
- Photograph of alleged injury from the assault

Because the Justice Center does not have a day care program available, unless your minor child is the victim of the alleged abuse, please make appropriate childcare arrangements. If that is not possible, please bring someone to watch the child while you are being assisted.

What help is available at night, on weekends or when the Justice Center is closed?

In case of an emergency or if you have been assaulted, contact your local police department or 911. If you are in immediate and present danger of abuse, a Petition for Emergency Relief from Abuse may be filed with the on call district court (police will provide you with the name of the on call emergency signing district justice). If the district justice believes that you are in immediate danger, he/she will grant you an emergency protection from abuse order. This protection order will expire at 4:30 p.m. the following business day. Be sure to contact the Family Court Administration Office as soon as possible, if you do want to pursue a permanent PFA Order.

How do I receive a temporary protection order after filing a petition for a Protection from Abuse order?

After filing a petition for protection from abuse, a judge will review the case to determine if a temporary protection order should or should not be granted. If the judge believes a Temporary Order should be issued, he/she will issue a temporary protection order.

How is the alleged assailant notified of the temporary Protection from Abuse order?

The alleged assailant must be served with notice of the temporary protection order and the hearing date. The sheriff's

department or a local law enforcement agency will serve the court order on the alleged assailant. Once the alleged assailant is served, he/she can be arrested if there is another assault in violation of the terms of the court order.

How do I get a final Protection from Abuse order?

A hearing will be held in front of a judge within ten days of filing your petition with the court, and the judge will listen to the facts of your case. If the judge finds that abuse has occurred, a final protection from abuse order will be issued. The length of the order can be from one (1) to eighteen (18) months.

What protection will I receive?

A Protection from Abuse Order may contain the following relief:

- Direct the alleged assailant not to abuse, threaten, harass, or stalk you.
- Direct the alleged assailant to stay away from the house or apartment where you live, even if that is also the alleged assailant's home.
- Direct the alleged assailant to stay away from your school or where you work.
- Direct the alleged assailant to refrain from harassing you or your relatives.
- Prohibit the alleged assailant from having any guns or gun permits.
- Direct the alleged assailant to pay you for losses resulting from the abuse. These could include medical bills and lost wages.
- Direct the alleged assailant to attend a batterer's counseling program (depending on jurisdiction).
- Award you temporary custody of your children and may grant you temporary support for yourself and/or the children of the alleged assailant.

(THIS MAY NOT APPLY IN ALL CASES).

Terms of order may vary depending on each specific circumstance.

If you are awarded custody/support, you must follow up by filing the appropriate custody/support actions in a timely manner. Do not wait until your order expires. Speak to an attorney prior to taking these actions for legal advice.

Will my protection order be enforced in another county or state?

In most cases, yes. The Pennsylvania State Police maintain a registry of all protection from abuse orders issued throughout the Commonwealth of Pennsylvania. Most out-of-state courts will enforce a valid protection order that is issued and properly filed in another state.

What is the alleged assailant violated the order?

You should immediately call the police and report the violation. A police officer may arrest the alleged assailant, even if he/she does not witness the abuse. An alleged assailant charged with

the contempt of a protection order can face criminal charges for the acts committed that were in violation of the order. After a hearing, the court may find the alleged assailant in contempt and sentence him/her to prison for up to six months and/or fined up to \$1,000 under Pennsylvania law.

How can I get a copy of my PFA order?

All civil matters, including your PFA, get filed in the Family Court located 34 South 11th Street Domestic Relations Unit Room B-15 Philadelphia, PA. 19107 (215) 686-3511. You may go in person and request your copies.

What domestic violence programs exist in Philadelphia?

These services include crisis hotlines, safe homes or shelters, legal advocacy, community education, counseling, systems intervention, transportation, as well as information and referral. A domestic violence counselor may be available to help an abused person seek a protection order. Your local domestic violence hotline is available 24 hours a day, and all services are confidential.

For more information look in the blue pages of your local phone book or contact:

The Crime Victims' Center of Center City:

(215) 665-9680

Women's Organization against Rape:

(215) 985-3315

The Domestic Violence Center of Center City

24-Hour Hotline: 1-866-723-3014

How can I find a lawyer?

Legal Philly 24/7 (267)265-4553

2 Penn Center Plaza

1500 John F. Kennedy Blvd, Suite 220 Philadelphia, PA. 19102

More information on obtaining a Protection from Abuse Order in the State of Pennsylvania can be found here: www.philalegal.org/PFA. PASSHE Center City campus offices may issue an institutional "no contact" order if deemed appropriate or at the request of the victim or accused.

ASSISTANCE FOR VICTIMS: RIGHTS & OPTIONS

Regardless of whether a complainant elects to pursue a criminal complaint or whether the offense is alleged to have occurred on or off campus, the University will assist survivors of sexual assault, domestic violence, dating violence, and stalking and will provide each victim with a written explanation of their rights and options. Such written information will include:

- The procedures survivors should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred;
- Information about how the institution will protect the privacy of complainants and other necessary parties;
- A statement that the institution will provide written notification to students and employees about survivor services within the institution and in the community;
- A statement regarding the institution's provisions about options for, available assistance in, and how to request accommodations and protective measures; and;
- An explanation of the procedures for institutional disciplinary action.

West Chester University complies with Pennsylvania law in recognizing orders of protection by advising any person who obtains an order of protection from any state within the U.S. to provide a copy to Public Safety and the Office of the Title IX Coordinator. A complainant may then meet with Public Safety to develop a Safety Action Plan, which is a plan for campus police and the complainant to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to escorts, special parking arrangements, changing classroom locations or allowing a student to complete assignments from home. Other options may be available for a student on a case-by-case basis as the University determines what other measures must be taken.

The University cannot apply for a legal order of protection/protection from abuse (PFA) from the applicable jurisdiction(s). The complainant is required to apply directly for these services and can be assisted by Public Safety if so desired. To obtain a Protection from Abuse (PFA) Order, all civil matters, including your PFA, get filed

in the Family Court located 34 South 11th Street Domestic Relations Unit Room B-15 Philadelphia, PA. 19107 (215) 686-3511. You may go in person and request your copies. The complainant should call his or her local police department to find out who is the district justice on-call. The Emergency PFA is only valid through the close of the next business day. For example, if a victim obtains an Emergency PFA on a Friday evening, that PFA is only valid through Monday at 4:30 p.m.

Additional Information:

The PASSHE Center City campus complies with Pennsylvania law in recognizing orders of protection by advising any person who obtains an order of protection from any state within the U.S. to provide a copy to Philadelphia Police Department and the Office of the Title IX Coordinator. A complainant may then meet with the Title IX Coordinator to develop a Safety Action Plan, which is a plan for campus police and the victim to reduce risk of harm while on campus or coming and going from campus.

This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom locations or allowing a student to complete assignments from home. Other options may be available for a student on a case-by-case basis as the PASSHE Center City campus determines what other measures must be taken.

The PASSHE Center City campus cannot apply for a legal order of protection / protection from abuse (PFA) from the applicable jurisdiction(s). The victim is required to apply directly for these services. To obtain a Protection from Abuse (PFA) Order, Monday through Friday between 8:30a.m. and 5:00p.m., the victim must go to Family Court located 34 South 11th Street Room B-15 Philadelphia, PA. (215) 686-3511. To obtain a PFA Monday through Friday between 5:00p.m. and 8:30a.m., the victim must go to the Philadelphia Emergency Domestic Violence site at 1301 Filbert St., Room B-03, Philadelphia PA 19107, (215-683-7280). The office is open 24 hours on weekends and holidays. The victim should call his or her local police department for information about the Philadelphia Emergency Domestic Violence site. The Emergency PFA is only valid through the close of the next business day. For example, if a victim obtains an Emergency PFA on a Friday evening, that PFA is only valid through Monday at 5:00 p.m.

Confidentiality and Reporting

West Chester University understands the amount of strength and courage that is required to come forward and disclose a sexual misconduct. Be it harassment, assault, sexual exploitation, stalking or dating violence, West Chester University takes your right to privacy seriously. Because the safety of our students, faculty and staff is of our utmost concern, we are not always able to grant complete confidentiality in a sexual misconduct case, however, we will, to the extent possible, do our best to protect your privacy while meeting the University's legal obligations.

There are some resources that provide complete confidentiality on and off campus.

They are as follows:

- West Chester University Counseling Center – (610-436-2301)
- Crime Victim's Center of Chester County – (610-692-7273)
- Rape, Abuse and Incest, National Network – hotline (1-800-656-4673)

More information about these three organizations can be found in the "Resources" section of this section of the document.

The University is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. Every effort will be made to protect the privacy interests of all individuals involved. Privacy, confidentiality and privilege have distinct meanings under this Policy.

Privacy generally means that information related to a report of sexual misconduct will only be shared with a limited circle of individuals, including individuals who "need to know" in order to assist in the review, investigation, or resolution of the report or to deliver resources or support services. While not bound by confidentiality or privilege, these individuals will be discreet and respect the privacy of all individuals involved in the process. All participants in an investigation of sexual misconduct under this Policy, including Advisors and Witnesses, will be informed that privacy helps enhance the integrity of the investigation and protect the privacy interests of the parties, however, nothing in this Policy is intended to impose restraints on a party's ability to discuss the allegations under investigation or to gather and present evidence as part of the resolution process.

Certain individuals are designated as having confidentiality. For reports made to employees designated with having confidentiality, the University will respect the reporting party's expectations of privacy to the extent permissible by law while still ensuring compliance with other reporting obligations. For example, reports involving minors are subject to mandatory reporting requirements. Individuals designated as having confidentiality are required to report the nature, date, time and general location of an incident to the Title IX coordinator. Individuals designated as having confidentiality will not share other information with the Title IX Coordinator or any other employee of the University without the express permission of the disclosing party. Individuals designated as having confidentiality can provide information about the University and off-campus resources, support services and other options. As noted above, because of the confidential nature of these resources, disclosing information to or seeking advice from a confidential resource does not constitute a report or Formal Complaint to the University and will not result in a response or intervention by the University. A person consulting with a confidential resource may decide to make a report to the University and/or law enforcement. This includes Student Health Services.

Communication with certain individuals may be privileged by operation of law and reports made to these individuals will not be shared with the University Title IX Coordinator or law enforcement except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or as otherwise required by law. This includes the Counseling & Psychological Services Center and the West Chester University Community Mental Health Center.

All University proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX of the Education Amendments of 1972 ("Title IX"), Violence Against Women Act (VAWA), state and local law, and University policy. No information will be released from such proceedings, except as required or permitted by law and

University policy.

The University may share non-identifying information about reports received in aggregate form, including data about outcomes and Disciplinary Sanctions."

► **Information regarding registered sex offenders can be found at:**
www.pameganslaw.state.pa.us/

RESOURCES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, & STALKING

Upon receipt of a report of domestic violence, dating violence, sexual assault, or stalking, PASSHE Center City campus will provide written notification to students and employees about existing assistance with and/or information about obtaining resources and services including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and assistance in notifying appropriate local law enforcement. These resources include the following are available at the West Chester University main campus:

Off-campus resource

Office of Diversity, Equity, and Inclusion
Lynn Klingensmith
114 West Rosedale Ave 102
West Chester, PA 19383
(610) 436-2513

On and off campus services for victims

Upon receipt of a report of domestic violence, dating violence, sexual assault, or stalking, West Chester University will provide written notification to students and employees about existing assistance with and/or information about obtaining resources and services including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and assistance in notifying appropriate local law enforcement. These resources including the following are provided by the main West Chester University Campus:

ON CAMPUS	TYPE OF SERVICES AVAILABLE	SERVICE PROVIDER	CONTACT INFORMATION
Counseling Center	Individual Counseling, Group Counseling, Crisis Intervention, Psychiatric Services, Consultation, Outreach	Dr. Rachel Daultry Director	610-436-2301
Health	Clinical Services- General health care, immunizations, TB testing, medications, sexual health • Wellness Promotion- Wellness education, alcohol/tobacco/ and other drugs, nutrition services	Clinical Services: Dr. Landrus Burrell, DrPH, MS Director Wellness Promotion: Kelsey Sevenski	610-436-2509
Mental Health	See Counseling	Dr. Rachel Daultry, Chair	610-436-2301
Victim Advocacy	Reporting, referral and support	Lynn Klingensmith	610-436-2513
Legal Assistance	legal consultation	Sandy Jones	610-436-2984
Visa and Immigration Assistance	Issue the Form 1-20 and DS-2019 for prospective students to apply for the F-1 and J-1 visa	Maggie Holroyd	610-436-3515
Student Financial Aid	Financial Aid, Work Study, Financial Literacy	Daniel McIlhenny, Director	610-436-2627
University Police	Escorts, Emergency Medical Services, Crime Prevention	Chief Raymond Stevenson	610-436-3311
Multicultural Center	Programs, activities, and service	Dr. Dametraus L. Jagers	610-436-3273
Director for Equity and Compliance	Sexual Misconduct information	Lynn Klingensmith	610-436-2433

OFF CAMPUS	TYPE OF SERVICES AVAILABLE	SERVICE PROVIDER	CONTACT INFORMATION
Counseling	Individual Counseling, Group Counseling, Crisis Intervention, Psychiatric Services, Consultation, Outreach, Alcohol Awareness Education, Drug and Alcohol Counseling	Chester County Counseling Center	610-933-8880
Health	Emergency and non-emergency medical services	Chester County Hospital	610-431-5000
Mental Health	Individual Counseling, Group Counseling, Crisis Intervention, Psychiatric Services, Consultation, Outreach, Alcohol Awareness Education, Drug and Alcohol Counseling	Chester County Mental Health Services Chester County Counseling Center	610-344-6265 610-933-8880
Victim Advocacy	Reporting, referrals, and support	Crime Victims Center	610-692-1926
Legal Assistance	Legal consultation	Legal Aid of Southeastern PA	610-436-4510
Visa and Immigration Assistance	Issue the Form 1-20 and DS-2019 for prospective students to apply for the F-1 and J-1 visa	HIAS of PA	215-832-0900
Police	Reporting, Emergency medical services, Crime prevention	West Chester Borough Police	610-692-2700
Police	Reporting, Emergency medical services, Crime prevention	Philadelphia Police Department	215-686-TIPS

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, include:

Rape, Abuse, and Incest National Network:
<http://www.rainn.org>

Department of Justice:
<http://www.ovv.usdoj.gov/sexassault.htm>

Department of Education, Office of Civil Rights:
<http://www2.ed.gov/about/offices/list/ocr/index.html>

Pennsylvania Coalition Against Domestic Violence:
<https://www.pcadv.org/>
1-800-799-7233

National Sexual Assault Hotline:
<https://www.rainn.org/>
1-800-656-4673

Pennsylvania Coalition against Rape:
<https://pcar.org/>
1-800-692-7445

Department of Justice, Office on Violence Against Women:
<https://www.justice.gov/ovv>

Department of Education, Office of Civil Rights:
<https://www2.ed.gov/about/offices/list/ocr/index.html>

How to be an active bystander

Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.”

We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help.

Below is a list of some ways to be an active bystander. Further information regarding bystander intervention may be found. If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

- Watch out for your friends and fellow students/ employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
- Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
- Speak up when someone discusses plans to take sexual advantage of another person.
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

Risk Reduction

With no intention to blame the complainant, and with recognition that only those who commit sexual harassment and violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act. (Taken from Rape, Abuse, & Incest National Network, www.rainn.org):

6. Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
7. Try to avoid isolated areas. It is more difficult to get help if no one is around.
8. Walk with purpose. Even if you do not know where you are going, act like you do.
9. Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably is not the best place to be.
10. Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
11. Make sure your cell phone is with you

and charged and that you have cash money.

12. Do not allow yourself to be isolated with someone you do not trust or someone you don't know.
13. Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
14. When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
15. Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
16. Do not leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you have left your drink alone, just get a new one.

17. Do not accept drinks from people you do not know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, do not drink from the punch bowls or other large, common open containers.
18. Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they have had, or is acting out of character, get him or her to a safe place immediately.
19. If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.). Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
20. If you need to get out of an uncomfortable or scary situation here are some things that you can try:
 - a. Remember that being in this situation is not your fault. You did not do anything wrong; it is the person who is making you uncomfortable that is to blame.
 - b. Be true to yourself. Do not feel obligated to do anything you do not want to do. “I don't want to” is always a good enough reason. Do what feels right to you and what you are comfortable with.
 - c. Have a code word with your friends or family so that if you do not feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
 - d. Lie, if you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
16. Try to think of an escape route. How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be

able to help you? Is there an emergency phone nearby?

17. If you and/or the other person have been drinking, you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

ADJUDICATION OF VIOLATIONS

(The Philadelphia Center City Campus follows the main West Chester University procedures)

Whether or not criminal charges are filed, the University or a single person may file a complaint alleging that a student or an employee violated the Sexual Misconduct policy. The following are the overviews of the policy and procedures in place as they relate to employees as the respondent or students as the respondent.

Reports of all domestic violence, dating violence, sexual assault and stalking made to campus Public Safety will automatically be referred to the Title IX Coordinator for review and processing regardless of if the complainant chooses to pursue criminal charges.

The university's disciplinary process includes a prompt, fair, and impartial investigation and resolution process. In all instances, the process will be conducted in a manner that is consistent with the institution's policy and that is transparent to the complainant and the respondent. Usually, the resolution of domestic violence, dating violence, sexual assault and stalking complaints are completed within the time-frame specified in each policy the institution maintains. However, each procedure allows for extensions of time-frames for good cause with written notice to the complainant and the respondent of the delay and the reason for the delay. University officials involved in the investigation or adjudication of domestic violence, dating violence, sexual assault and stalking complaints are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking as well as how to conduct an investigation and hearing process that protects the safety of the victim and promotes accountability.

Furthermore, each policy provides that:

1. The complainant and the respondent will have timely notice for meetings at which

the complainant or respondent, or both, may be present;

2. The complainant, the respondent and appropriate officials will have timely and equal access to any information that will be used during formal and informal disciplinary meeting and hearings;
3. The institutional disciplinary procedures will not be conducted by officials who have a conflict of interest or bias for or against the complainant or the respondent;

The complainant and the respondent will have the same opportunities to have others present during any institutional disciplinary proceeding.

4. The complainant and the respondent each have the opportunity to be advised by an advisor of their choice at any stage of the process and to be accompanied by that advisor to any related meeting or proceeding. The University will not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding. However, the role of the advisor is limited to providing support throughout an investigation and/or hearing and conducting cross examination. Advisors may not speak for their party except for the limited purposes of cross-examination.

5. The complainant and the respondent will be notified simultaneously, in writing, of the any initial, interim and final decision of any disciplinary proceeding; and

6. Where an appeal is permitted under the applicable policy, the complainant and the respondent will be notified simultaneously in writing, of the procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding. When an appeal is filed, the complainant and the respondent will be notified simultaneously in writing of any change to the result prior to the time that it becomes final as well as of the final result once the appeal is resolved.

The University has developed policies for resolving reports of Domestic Violence, Dating Violence, Sexual Assault and Stalking. For students, these allegations will be resolved using the procedures outlined in the Student Code of Conduct (for students) or the Sexual Harassment Policy (for employees).

To file a West Chester University student conduct report:

Sexual misconduct is a violation of the Student Code of Conduct, and as such, a complainant may make a judicial complaint against a West Chester University student(s). A student conduct investigation and hearing are separate from a criminal investigation by the police. A respondent can receive punishment up to and including expulsion from the University. Formal student conduct complaints can be made by contacting:

Christina Brenner

Office of Student Conduct
Ruby Jones Hall, Room 200

CBrenner@wcupa.edu

610-436-3511

Or by this link: [Report a Student Conduct Violation](#)

West Chester University Disciplinary Procedure

Any student or employee of West Chester University can file a charge against a student or student organization for violations of the Student Code of Conduct on the basis of sexual misconduct. Student Code of Conduct charges are entirely separate from a criminal investigation by the police, and any complainant may file a criminal complaint with police in addition to a Student Code of Conduct violation. The intentional filing of a false report will not be tolerated. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal laws and civil defamation laws. Full detail of the procedures can be found in the Student Code of Conduct at www.wcupa.edu/conduct.

Retaliation

West Chester University prohibits retaliation against any person for using this reporting procedure, or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of sexual misconduct or misconduct. Any retaliatory behavior should be reported immediately to the Director of Student Conduct (see Campus Resources section on pages 45-46 of this document). Any person, including third parties, who violates this retaliation policy, will be subject to discipline, up to and including termination if they are an employee, and/or expulsion if they are a student.

Whether or not criminal charges are filed, the University or a single person may file a complaint alleging that a student or an employee violated the Sexual Misconduct policy. The following are the overviews of the policy and procedures in place as they relate to employees as the respondent or students as the respondent.

Reports of all domestic violence, dating violence, sexual assault and stalking made to campus Public Safety will automatically be referred to the Title IX Coordinator for review and processing regardless of if the complainant chooses to pursue criminal charges.

The university's disciplinary process includes a prompt, fair, and impartial investigation and resolution process. In all instances, the process will be conducted in a manner that is consistent with the institution's policy and that is transparent to the complainant and the respondent. Usually, the resolution of domestic violence, dating violence, sexual assault and stalking complaints are completed within the time-frame specified in each policy the institution maintains. However, each procedure allows for extensions of time-frames for good cause with written notice to the complainant and the respondent of the delay and the reason for the delay. University officials involved in the investigation or adjudication of domestic violence, dating violence, sexual assault and stalking complaints are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking as well as how to conduct an investigation and hearing process that protects the safety of the victim and promotes accountability.

Furthermore, each policy provides that:

1. The complainant and the respondent will have timely notice for meetings at which the complainant or respondent, or both, may be present;
2. The complainant, the respondent and appropriate officials will have timely and equal access to any information that will be used during formal and informal disciplinary meeting and hearings;
3. The institutional disciplinary procedures will not be conducted by officials who have a conflict of interest or bias for or against the complainant or the respondent;

The complainant and the respondent will have the same opportunities to have others present during any institutional disciplinary proceeding.

4. The complainant and the respondent each have the opportunity to be advised by an advisor of their choice at any stage of the process and to be accompanied by that advisor to any related meeting or proceeding. The University will not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding. However, the role of the advisor is limited to providing support throughout an investigation and/or hearing and conducting cross examination. Advisors may not speak for their party except for the limited purposes of cross-examination.
5. The complainant and the respondent will be notified simultaneously, in writing, of the any initial, interim and final decision of any disciplinary proceeding; and
6. Where an appeal is permitted under the applicable policy, the complainant and the respondent will be notified simultaneously in writing, of the procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding. When an appeal is filed, the complainant and the respondent will be notified simultaneously in writing of any change to the result prior to the time that it becomes final as well as of the final result once the appeal is resolved.

The University has developed policies for resolving reports of Domestic Violence, Dating Violence, Sexual Assault and Stalking. For students, these allegations will be resolved using the procedures outlined in the Student Code of Conduct (for students) or the Sexual Harassment Policy (for employees).

To file a West Chester University student conduct report:

Sexual misconduct is a violation of the Student Code of Conduct, and as such, a complainant may make a judicial complaint against a West Chester University student(s). A student conduct investigation and hearing are separate from a criminal investigation by the police. A respondent can receive punishment up to and including expulsion from the University. Formal student conduct complaints can be made by contacting:

Christina Brenner
Office of Student Conduct
Ruby Jones Hall, Room 200
CBrenner@wcupa.edu

610-436-3511

Or by this link: [Report a Student Conduct Violation](#)

West Chester University Disciplinary Procedure

Any student or employee of West Chester University can file a charge against a student or student organization for violations of the Student Code of Conduct on the basis of sexual misconduct. Student Code of Conduct charges are entirely separate from a criminal investigation by the police, and any complainant may file a criminal complaint with police in addition to a Student Code of Conduct violation. The intentional filing of a false report will not be tolerated. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal laws and civil defamation laws. Full detail of the procedures can be found in the Student Code of Conduct at www.wcupa.edu/conduct.

Retaliation

West Chester University prohibits retaliation against any person for using this reporting procedure, or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of sexual misconduct or misconduct. Any retaliatory behavior should be reported immediately to the Director of Student Conduct (see Campus Resources section on page 60 of this document). Any person, including third parties, who violates this retaliation policy, will be subject to discipline, up to and including termination if they are an employee, and/or expulsion if they are a student.

General Rules of Investigations under the Sexual Misconduct Policy

A. General Rules of Investigations

The Title IX Coordinator and/or an Investigator designated by the Title IX Coordinator will perform an investigation of the conduct alleged under a reasonably prompt timeframe, following issuance of the Notice of Allegations.

The University and not the Parties, has the burden of proof and the burden of gather-

ing evidence, i.e., the responsibility of showing a violation of this Policy has occurred. Either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility.

The University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. The University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e., evidence that tends to prove and disprove the allegations). See Inspection and Review of Evidence section below.

B. Inspection and Review of Evidence

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to issuance of the investigation report.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

- 1) Evidence that is relevant, even if that evidence does not end up being relied upon by the Decision Maker(s)/Hearing Officer(s) in making a determination regarding responsibility;
- 2) inculpatory or exculpatory evidence (i.e., evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a Party or other source.

The University will send the evidence to each Party and each Party's Advisor, if any, to inspect and review through an electronic format or a hard copy. The University is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The Parties will have 10 days to inspect and review the evidence and submit a written response by email to the Investigator. This response should include any new or additional

evidence the Party would like the Investigator to consider. The University will provide copies of the Parties' written responses, and any new or additional evidence provided, to the other Party and their Advisor. The other Party will have 5 days to inspect, review, and respond to the new or additional evidence through a written response to the Investigator. The University will provide copies of the Party's supplemental written response to the other Party and their Advisor.

The Investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a reasonable extension of the time to submit a written response, which may be denied in the sole discretion of the Investigator, in consultation with the Title IX Coordinator.

The Investigator has 10 days to generate a report or after the responses to additional evidence are due or, alternatively, may provide the Parties and their Advisors with written notice extending the investigation and explaining the reason for the extension.

The parties and their Advisors are encouraged not to disseminate the Investigative Report or photograph or otherwise copy any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Sexual Misconduct Resolution Process.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

C. Investigative Report

The Investigator will create an Investigative Report that fairly summarizes relevant evidence.

The Investigative Report is not intended to catalog all evidence obtained by the Investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

D. Ongoing Notice

If, in the course of an investigation, the University decides to investigate allegations

about either Party that are not included in the Notice of Allegations and are otherwise covered Sexual Misconduct Violations falling within this Policy or other violations of the University's Student Code of Conduct, the University will notify the Parties of the additional allegations by their University email accounts or other reasonable means.

The Parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

At any point prior to, or during an investigation, the complainant may seek supportive measures until a formal remedy is imposed. Complainants may request:

- Housing reassignment to ensure that victim and respondent are not in close proximity.
- Limitations on contact between parties (referred to as a "No Contact Directive").
- An escort to ensure the complainant's safety.
- Reassignment of classes to ensure that the complainant and respondent are not attending the same class.
- Counseling services.
- Medical services.
- Academic support such as tutoring.
- To withdraw from a class without penalty.

The Director of Student Conduct may also consider other remedies and/or measures to ensure the safety of the complainant and the campus community.

General Policy Statements regarding Sexual Harassment and Student Sexual Misconduct.

The following statements apply to all procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, regardless of whether the alleged conduct will be resolved in accordance with the Title IX/ Sexual Harassment policy.

Mandated Reporting Obligations of University Officials, Volunteers and Employees

All University Officials, Volunteers and Employees (including student employees) are obligated to report incidents of sexual misconduct of which they become aware to the Title IX Coordinator/designee, unless:

1) they serve in a role that makes such reports privileged or are recognized as providing a confidential resource (see Statement on Privacy and Confidentiality); or 2) they are a faculty member and learn of the report from a student during a classroom discussion, in a writing assignment for a class, or as part of a University-approved research project.

PLEASE NOTE: These reporting exceptions do not apply to reports of sexual misconduct involving an individual who was, or is, a child (a person under 18 years of age) when the abuse allegedly occurred. When a report involves suspected abuse of a child (an individual under the age of 18 at the time of the incident(s) as reported), all the University Employees, Officials and Volunteers are required to notify the University police and the ChildLine run by the Pennsylvania Department of Human Services (1-800-932- 0313). All other members of the University community are strongly encouraged to report suspected child abuse to law enforcement or the ChildLine.

University Employees designated as Campus Security Authorities (CSAs under the Clery Act are required to report certain crimes for federal statistical reporting purposes.

University Obligations Regarding Timely Warnings

Parties reporting Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking should be aware that under the Clery Act, the University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. If a report of sexual misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the Complainant.

JURISDICTION AND DISMISSALS

In certain circumstances where violations defined under the Final Rule as Regulatory Prohibited Conduct (Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault and Regulatory Stalking) do

not meet jurisdictional requirements, the University must dismiss those allegations contained in the Formal Complaint.

In certain circumstances the Title IX Coordinator may dismiss a Formal Complaint, or any specific allegations raised in the Formal Complaint at any time during the investigation or hearing.

Any Party may appeal a dismissal determination. See the Determining Jurisdiction and Mandatory Dismissal for Certain Allegations under Sexual Misconduct Resolution and Process Section for more information.

EMERGENCY REMOVAL FOR STUDENTS

- 1) The University retains the authority to remove a Respondent from its Education Programs or Activities on an emergency basis. This action is also referred to as an emergency removal.
- 2) Before imposing an emergency removal on a student Respondent, the University will:
 - undertake an individualized safety and risk analysis; and
 - determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual misconduct justifies a removal.
- 3) If the University imposes an emergency removal on a student Respondent, the University will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
 - The University will provide written notice of the emergency removal and applicable charges.
 - The University will provide an opportunity for the Respondent to appeal that decision to an appropriate Hearing Officer or designee within 10 days of the imposition of the emergency removal.
 - The designated University Hearing Officer will hear the evidence and determine whether there is sufficient evidence to support the conclusion that the Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual misconduct and that, based on that threat, removal is the appropriate course of action.

4) If the University learns of evidence that demonstrates that the emergency action is no longer justified after the emergency removal is imposed against a student Respondent, the University will take prompt action to rescind the emergency removal.

5) All emergency removals will also comply with requirements under Chapter 505 of Title 22 of the Pennsylvania Code concerning Student Personnel.

ADMINISTRATIVE LEAVE FOR EMPLOYEES

The University retains the authority to place Employees on administrative leave consistent with

applicable requirements of relevant University policies and collective bargaining agreements.

INFORMAL RESOLUTION PROCESS

Informal means of resolution, such as mediation, may be used as an alternative to the formal investigation and hearing procedures. Informal resolution is a voluntary process and may be used only where a Formal Complaint has been filed. Upon written agreement of all parties, informal resolution may be initiated at any time prior to finding of responsibility in a hearing and may be terminated at any time prior to final resolution. If the informal process is terminated, the Sexual Misconduct Resolution Process, which includes an investigation and hearing, will proceed. Once a final resolution has been reached and documented and signed by all parties, the resolution cannot be appealed.

Informal Resolution may not be utilized when a student files a formal complaint against a University Employee, Volunteer or Official under this policy.

SEXUAL MISCONDUCT RESOLUTION PROCESS

Formal Complaint

The Sexual Misconduct Resolution Process is initiated by a Complainant providing the Title IX Coordinator a written, signed Formal Complaint describing the facts alleged. See the section titled Filing a Formal Complaint above.

Notice of Allegations

The Title IX Coordinator will draft and provide a written Notice of Allegations to any

Party alleged to have violated this Policy. Such notice will occur as soon as practicable, but no more than 10 days, after the University receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The Notice of Allegations will include the following:

- Notice of the University's Sexual Misconduct Resolution Process including any Informal Resolution process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting violation(s) of any University policy, and sufficient details known at the time the Notice of Allegations is issued, such as the identities of the parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting a policy violation; and the date and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the hearing.
- A statement that the Parties may have an Advisor of their choice.
- A statement that before the conclusion of the investigation, the Parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a Party or other source.
- Individuals are prohibited from knowingly filing a false report or making misrepresentations. If, following an investigation and hearing as appropriate under applicable policy, a person is found to have willfully filed a bad faith report or made misrepresentations as part of a resolution process, the party may be subject to appropriate Disciplinary Sanctions under the Code of Conduct.

Conduct in the case of Students or other relevant University policy in the case of Officials, Employees or Volunteers.

The Parties will be notified by their University email accounts if they are a Student or Employee, and by other reasonable means if they are neither.

The University will provide sufficient time for the Parties to review the Notice of Allegations and prepare a response before any initial interview.

Determining Jurisdiction and Mandatory Dismissal for Certain Allegations

For alleged violations of Regulatory Prohibited Conduct (Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault and Regulatory Stalking) the following elements will be determined in the reasonable determination of the Title IX Coordinator:

- The conduct is alleged to have occurred in the United States;
- The conduct is alleged to have occurred in the University's Education Program or Activity; and
- The alleged conduct, if true, would constitute covered Regulatory Prohibited Conduct, as defined in this Policy.

If all of the elements are met, the University will investigate the allegations under the processes set forth in this Policy. If any one of these elements is not met, the Title IX Coordinator will notify the parties the specific allegation contained in the Formal Complaint does not meet the required jurisdictional requirements under the Final Rule and is being dismissed. Any Party may appeal a dismissal using the process set forth in the Appeals section below. Dismissal of any violations constituting Regulatory Prohibited Conduct will not affect the University's ability to proceed with an investigation of charges categorized as Non-Regulatory or other charges under this Policy or any other University Policy.

Discretionary Dismissals for All Allegations

The Title IX Coordinator may dismiss a Formal Complaint brought under this Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A Complainant notifies the Title IX Coordinator in writing that they would

like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint;

- The Respondent is no longer enrolled in, associated with or employed by the University; or,
- If specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any Party may appeal a dismissal using the process set forth in the Appeals section below.

Burden of Proof

The burden of proof refers to who has the responsibility of showing a violation has occurred. It is always the responsibility of the University to satisfy the burden of proof. The Respondent does not have the burden to prove that a violation did not occur. Respondents may decide not to share their side of the story or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility. Additionally, Decision-Maker(s) shall not make an adverse inference against a Respondent for the Respondent's refusal to participate in an investigation or hearing, nor will Respondent's refusal to participate result in increased sanctions if the Respondent is found responsible for the violation(s).

10. Standard of Proof

Consistent with requirements set forth in the Pennsylvania Code pertaining to student disciplinary due process requirements, the University will use the preponderance of the evidence standard in investigations of formal complaints alleging sexual misconduct violations under this Policy. This means that the individual(s) charged with making a finding must determine whether it is more likely than not that a violation of the Policy occurred. In cases where an employee is the respondent the standard of proof is the preponderance of evidence as well.

Disciplinary Sanctions Against Employees, Officials and Volunteers

Possible Disciplinary Sanctions

Disciplinary Sanctions imposed on an Employee for violating this Policy, subject to an

applicable collective bargaining agreement or University/System policies, may include a penalty

up to and including separation from employment. Disciplinary Sanctions imposed on an Official or Volunteer may include a penalty up to removal or the request for removal of the Official or Volunteer from their respective position.

Disciplinary Sanctions Against Students

Possible Disciplinary Sanctions

The University may impose the following Disciplinary Sanctions upon Students, singly or in

combination: Disciplinary Probation (ranging from six weeks to ten semesters), Final Disciplinary Probation (ranging from six weeks to ten semesters), Disciplinary Suspension (ranging from one to fifteen semesters), and Disciplinary Expulsion. Sanction conditions may include off campus counseling, campus restriction(s), loss of housing, residential non-renewal or reassignment, and related educational conditions.

Previous Disciplinary Sanctions

Previous Disciplinary Sanctions of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

Disciplinary Actions in Cases of alleged Dating Violence, Domestic Violence, Sexual Assault or Stalking.

The following procedures are followed when a case of alleged Dating Violence, Domestic Violence, Sexual Assault, or Stalking falls under the Sexual Misconduct Policy where the Respondent is a student.

A. Notice of Hearing

No less than 10 days prior to the hearing, the Office of Student Conduct will send written notice of the hearing to the Parties. The Parties will be notified by their University email accounts or by other reasonable means. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Hearing will contain:

- 1) A description of the alleged violation(s), a list of all policies allegedly violated,

a description of the applicable procedures, and a statement of the potential Disciplinary Sanctions actions that could result.

- 2) The time, date, and location of the hearing.
- 3) Information about the option for the hearing to occur with the parties located in separate rooms using technology that enables the Decision Maker(s)/Hearing Officer(s) and Parties to see and hear a Party or Witness answering questions. Parties should inform the Office of Student Conduct of any desire to have the hearing occur in separate rooms at least 3 days prior to the hearing to ensure appropriate technology is in place.
- 4) Information on how the hearing will be recorded and on access to the recording for the Parties after the hearing.
- 5) A copy of the rules of decorum for all hearing participants.
- 6) A list of the Decision Makers and/or Hearing Facilitator who will attend the hearing, along with an invitation to object to any actual or perceived conflicts of interest or bias of the Decision Maker(s)/Hearing Officer(s) prior to the hearing.
- 7) A statement that if any Party or Witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the testimony or any statements provided by the Party or Witness prior to the hearing will not be considered by the Decision Maker.
- 8) Notification that the parties may have the assistance of an Advisor of their choice at the hearing and will be required to have one present for any questions they may desire to ask of the other Party or Witnesses. The Party should notify the Office of Student Conduct in advance of the hearing if they do not have an Advisor, and the University will appoint one. Each party must have an Advisor present.
- 9) A copy of all the materials provided to the Decision Maker(s)/Hearing Officer(s) about the matter and the opportunity to provide a written response in advance of the hearing.
- 10) Information regarding who to contact to arrange any disability accommodations, language assistance, and/

or interpretation services that may be needed at the hearing.

- 11) For compelling reasons, the Office of Student Conduct may reschedule the hearing.

B. Hearing

The University will not issue a Disciplinary Sanction arising from an allegation of a violation of this Policy without holding a hearing, unless otherwise resolved through an informal resolution process or an alternate process permitted under this Policy. If the University determines a hearing is necessary, the Parties cannot waive the right to a hearing.

The University may still proceed with the hearing in the absence of a Party, and may reach a determination of responsibility in their absence. The University will not threaten, coerce, intimidate, or discriminate against the Party in an attempt to secure the Party's participation. If a Party does not participate in a hearing or submit to cross-examination in the hearing, the Decision Maker(s)/Hearing Officer(s) may not rely on any "statement" by that Party. See Cross Examination section below.

The Decision Maker(s)/Hearing Officer(s) cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the hearing or refusal to answer cross examination or other questions.

The hearing may be conducted with all Parties physically present in the same geographic location, or, at the University's discretion, any or all Parties, Witnesses, and other participants may appear at the hearing virtually through video conferencing technology. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors.

All proceedings will be recorded through audio recording. That recording or transcript will be made available to the Parties for inspection and review upon request.

C. Continuances or Granting Extensions

The University may determine that multiple sessions or a continuance (i.e., a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the University will notify all

participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

D. Participants in the Hearing

Hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

- 1) The Decision Maker(s)/Hearing Officer(s)
- 2) The Hearing Chair
- 3) Hearing facilitators
- 4) University personnel
- 5) The Parties
- 6) Advisor of choice or provided by the University for each Party
- 7) Witnesses
- 8) Any individuals necessary to provide interpretation or other support services associated with reasonable accommodations to facilitate participation in the hearing. The Decision Maker(s)/Hearing Officer(s) will not have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the Parties to the particular case. The Parties will have an opportunity to raise any objections regarding a Decision Maker's actual or perceived conflicts of interest or bias at the beginning of the hearing. Parties and Witnesses cannot be compelled to participate in the hearing, and have the right not to participate in the hearing free from retaliation.

E. Hearing Procedures

For all hearings conducted under this Policy, the procedure will be as follows:

- 1) Hearing Chair will open and establish rules and expectations for the hearing.
- 2) The Parties will each be given the opportunity to provide opening statements.
- 3) The Investigator will present a summary of the final investigation report, including items that are and are not contested. The Investigator will be subject to questioning by the Decision Maker(s)/Hearing Officer(s) and the Parties (through their Advisors). The Investigator should not be asked their opinion on credibility, recommended findings or determinations. If such information is introduced, the Hearing Chair will direct that it be disregarded.
- 4) Hearing Chair and Hearing Panel Mem-

bers will ask questions of the Parties and Witnesses.

- 5) Parties will be given the opportunity for cross-examination after Decision Maker(s)/Hearing Officer(s) conduct(s) its initial round of questioning See Cross-Examination Procedure below.
- 6) During the Parties' cross-examination, Hearing Chair will have the authority to pause cross-examination at any time for the purposes of asking Decision Maker(s)/Hearing Officer(s) own follow up questions: and any time necessary in order to enforce order for the hearing or the established rules of decorum. If an Advisor does not comply with the established rules of decorum, may provide that Party with a different Advisor to conduct cross-examination on behalf of that Party.
- 7) Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Decision Maker(s)/Hearing Officer(s). A Party's waiver of cross-examination does not eliminate the ability of the Decision Maker(s)/Hearing Officer(s) to use statements made by the Party.

F. Relevant evidence and questions

"Relevant" evidence and questions are those questions and evidence that tends to make an allegation of sexual misconduct more or less likely to be true. "Relevant" evidence and questions do not include the following types of evidence and questions, which are deemed "irrelevant" at all stages of any process initiated under this Policy:

- 1) Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior unless:
 - a) They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
 - b) They concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.
- 2) Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege including attorney-client privilege; or

- 3) Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

G. Cross-Examination

- 1) Each Party's Advisor may conduct cross-examination of the other Party or Parties and Witnesses and ask follow-up questions, including those challenging credibility directly, orally, and in real time.
- 2) Parties will not be permitted to personally cross-examine each other.
- 3) If a Party does not participate in a hearing, the Party's Advisor may attend and conduct cross-examination on behalf of the Party.
- 4) If neither a Party nor their Advisor appear at the hearing, the University will provide an Advisor to appear on behalf of the non-appearing Party and ask cross-examination questions.
- 5) Before any cross-examination question is answered, the Decision Maker(s)/Hearing Officer(s) will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the Decision Maker(s)/Hearing Officer(s) may be deemed irrelevant if they have been asked and answered.
- 6) The Decision Maker(s)/Hearing Officer(s) must explain to the Party proposing the question any decision to exclude a question as not relevant.
- 7) If a Party or Witness does not submit to cross-examination at the hearing, the Decision Maker(s)/Hearing Officer(s) may not rely on any statement of that Party or Witness in reaching a determination regarding responsibility.
- 8) The Decision Maker(s)/Hearing Officer(s) may not draw an inference about a determination of regarding responsibility based solely on a Party's or Witness's absence from the hearing or refusal to answer cross-examination or other questions.

9. Decisions

A. General Considerations for Evaluating Testimony and Evidence

- 1) While the opportunity for cross-examination is required in all hearings under this Policy, determinations regarding

responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision Maker(s)/Hearing Officer(s).

- 2) Decision Maker(s)/Hearing Officer(s) shall not draw inferences regarding a Party or Witness' credibility based on the Party or Witness' status as a Complainant, Respondent, or Witness, nor shall it base its judgments in stereotypes about how a Party or Witness would or should act under the circumstances.
- 3) Generally, credibility judgments should rest on the demeanor of the Party or Witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.
- 4) Credibility judgments should not rest on whether a Party or Witness' testimony is nonlinear or incomplete, or if the Party or Witness is displaying stress or anxiety.
- 5) Where a Party or Witness' conduct or statements demonstrate that the Party or Witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the Decision Maker(s)/Hearing Officer(s) may draw an adverse inference as to that Party or Witness' credibility.
- 6) Decision Maker(s)/Hearing Officer(s) will afford the highest weight relative to other testimony to first-hand testimony by Parties and Witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e., tending to prove and disprove the allegations) evidence will be weighed in equal fashion.
- 7) The Final Rule requires the University to admit and allow testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the Decision Maker(s)/Hearing Officer(s) will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.
- 8) The Final Rule requires the University allow parties to call character witnesses to testify. The University does not provide for character witnesses in other proceed-

ings. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the Decision Maker(s)/Hearing Officer(s) will be instructed to afford very low weight to any non-factual character testimony of any Witness.

B. Timeline for Decision

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within 10 days of the completion of the hearing.

C. Finality

The determination regarding responsibility becomes final either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested as set forth in the Appeals section below.

Disciplinary Sanctions Against Students

Possible Disciplinary Sanctions

The University may impose the following Disciplinary Sanctions upon Students, singly or in combination: Disciplinary Probation (ranging from six weeks to ten semesters), Final Disciplinary Probation (ranging from six weeks to ten semesters), Disciplinary Suspension (ranging from one to fifteen semesters), and Disciplinary Expulsion. Sanction conditions may include off campus counseling, campus restriction(s), loss of housing, residential non-renewal or reassignment, and related educational conditions.

B. Previous Disciplinary Sanctions

Previous Disciplinary Sanctions of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

C. Timing

The Disciplinary Sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

Appeals Where the Respondent is a Student

A. Each Party may appeal the dismissal of a Formal Complaint or any included allega-

tions or a determination of responsibility on the following grounds:

- 1) A procedural irregularity under the University policy or procedures that affected the hearing outcome.
 - 2) New evidence that was not reasonably available through the exercise of reasonable diligence at the time of the hearing or dismissal of the Formal Complaint that could affect the outcome of the matter.
 - 3) The Title IX Coordinator, Investigator(s), or Decision Maker(s)/Hearing Officer(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
 - 4) The Disciplinary Sanction imposed was grossly disproportionate to the violation.
- B. Appeals must be filed in writing within 5 days of being notified of the decision and must indicate the grounds for the appeal.
- C. The submission of an appeal stays any Disciplinary Sanctions for the pendency of an appeal. Supportive Measures and remote learning opportunities remain available during the pendency of the appeal.
- D. If a party appeals, the University will notify the other party in writing of the appeal as soon as practicable, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal. If the basis of the appeal is the Disciplinary Sanction imposed was grossly disproportionate to the violation, the other Party will be given 5 days to respond to the Disciplinary Sanctions basis of appeal after being notified of the appeal.
- E. Appeals will be decided by the University Appeals Board, who will be free of conflict of interest and bias, and will not serve as an Investigator, Title IX Coordinator, Advisor or Decision Maker/Hearing Officer in the same matter.
- F. The appealing party must meet its burden to demonstrate the outcome was affected by a preponderance of the evidence. The role of the University Appeals Board is not to reweigh the evidence. The University Appeals Board will confine their review to the basis of appeal alleged and may modify the sanction on the basis that the severity of the sanction is dis-

proportionate to the violation(s). In the event a Disciplinary Sanction is modified, the other party will be notified of the modified Disciplinary Sanction.

G. The outcome of appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision.

Appeals Where the Respondent is an Employee

A. Each Party may appeal the dismissal of a Formal Complaint or any included allegations or a determination of responsibility on the following grounds:

1) A procedural irregularity under the University policy or procedures that affected the hearing outcome.

2) New evidence that was not reasonably available through the exercise of reasonable

diligence at the time of the hearing or dismissal of the Formal Complaint that could affect the outcome of the matter.

3) The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

B. Appeals must be filed in writing within 5 days of being notified of the decision and must indicate the grounds for the appeal.

C. The submission of an appeal stays any Disciplinary Sanctions for the pendency of an appeal. Supportive Measures remain available during the pendency of the appeal.

D. If a Party appeals, the University will notify the other Party in writing of the appeal as soon as practicable, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

E. Appeals will be decided by an Appeals Board who will be free of conflict of interest and bias, and will not serve as an Investigator, Title IX Coordinator, Advisor or Decision Maker in the same matter.

F. The appealing party must meet its burden to demonstrate the outcome was affected by a preponderance of the

evidence. The role of an Appeals Board is not to reweigh the evidence. The Appeals Board will confine their review to the basis of appeal alleged.

G. The outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision.

The following disciplinary procedures are followed when an alleged incident of Dating Violence, Domestic Violence, Sexual Assault or Stalking does not fall under the Sexual Misconduct Policy and the Respondent is an Employee.

Procedures

Overall responsibility for the implementation of the sexual harassment and sexual misconduct policy has been assigned to the Office for Diversity, Equity and Inclusion. Any individual having suggestions, problems, complaints, or grievances with regard to sexual misconduct is encouraged to contact the office at 114 W. Rosedale Avenue or by phone at 610-436-2433. All procedures may be performed virtually. In the event that a member of the West Chester University Community feels that he or she has been the subject of sexual misconduct or harassment, the matter should be brought to the attention of the Office for Diversity, Equity and Inclusion. If a complaint alleges sexual harassment/misconduct by an employee of the Office for Diversity, Equity and Inclusion or the Office of the President, the complaint will be investigated by a party external to the University.

The University has a legal obligation to investigate informal or anonymous reports of sexual harassment/misconduct to the extent feasible and make complainants and respondents aware of the resources available to them, while striving to respect privacy and confidentiality. The University's obligation to protect the safety of its students and to record statistics may not permit complete confidentiality, but the University shall take the necessary measures to ensure that the information shared is limited to those individuals required to know.

It is not usually possible to conduct a formal investigation of anonymous reports of sexual harassment/misconduct, or in situations where a complainant requests confidentiality or asks that the complaint not be pursued. The University has a responsibility to take action to prevent harassment/misconduct.

In the event of anonymous reports of sexual harassment/misconduct, or if the complainant asks that the complaint not be pursued, reasonable steps will be taken to respond to the complaint consistent with the request for confidentiality, which may include meeting with the alleged harasser to provide notification of the allegations and the possible repercussions if a formal complaint is brought forward.

The Director for Equity and Compliance may recommend voluntary sexual harassment/misconduct training for an individual or a work unit.

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

The Office for Diversity, Equity and Inclusion 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:

- Submission of the complaint is beyond 180 days of the incident,
- Whether the alleged behaviors may represent a violation of the University's Sexual Harassment/misconduct Policy,
- The severity of the allegations,
- The University risk for failing to address the allegations, and
- Whether the allegations represent a possible pattern of behavior for the respondent.

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.

The Complaint Process for Non-Title IX Sexual Harassment or Misconduct

The process below only applies for complaints filed against non-students for sexual harassment or misconduct not regulated by Title IX of the Educational Amendment of 1972. This would include, but is not limited to, allegations in violation of Titles VI and VII of the Civil Rights Act of 1964. If a Student is the Respondent, the procedures outlined in the Sexual Misconduct Policy will be followed.

Employees, whether Complainants or Respondents, have the right to be assisted in all aspects of the complaint procedure by their union representative. 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. If an employee elects to be represented by his or her union, the union will receive copies of all written notifications. Employees equally have the right not to be represented by their union. This decision rests solely with the employee. The role of the representative is limited to the advice and counsel of their principals only. Representatives cannot question, answer, or provide advice during an interview or hearing.

However, parties can request a brief recess to consult their representative.

The facts will be evaluated using a preponderance of the evidence standard to determine if a violation of this policy has occurred. At the conclusion of the process, the complainant will be advised that the matter was reviewed and addressed by the designated adjudicator.

Initiating a Complaint

In order to process an allegation of sexual harassment or sexual misconduct not falling under the 2020 Title IX regulations, the individual, accompanied by an advocate if they wish, must process the complaint through the Office for Diversity, Equity and Inclusion. Sexual misconduct is a serious matter, which can have far-reaching effects; therefore, knowingly false, or malicious accusations may result in disciplinary action.

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

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

The 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

The process is initiated when the Director for Equity and Compliance receives a complaint or report of a violation of WCU policy relating to sexual harassment or misconduct not covered by Title IX regulations. The Complainant will provide a written statement to the Director with sufficient factual information to permit the Director to make an initial assessment of violation. The Director will determine if any supportive measures should be applied. Following the initial assessment, the Director may take any of the following actions:

- If the Director for Equity and Compliance determines that the complaint, even if substantiated, would not rise to the level of a policy violation; the nature and circumstances of the report do not make it appropriate for an investigation; or, after consultation with the Complainant about the Complainant's preferences regarding participation, the Director determines that there will be insufficient information to investigate the matter, the Director may dismiss the complaint. The Complainant will be advised of the dismissal and of any other recourse that might be appropriate.
- If the Director for Equity and Compliance determines that the complaint is outside the scope of the sexual harassment or sexual misconduct policies and/or most appropriately handled by another office, the Director may refer the complaint to another office for review.

- If the Director for Equity and Compliance determines that the complaint or report would, if substantiated, constitute a violation of policy, the Director will advise the Complainant of the types of processes available.
- If the Complainant chooses not to move forward with either process, or if the Complainant is anonymous, the Director for Equity and Compliance may notify the Respondent of the information reported and the possible repercussions if a formal complaint is brought forward. The Director may schedule a meeting with the Respondent (and their representative, if desired by the Respondent) to pass on this information, answer questions, and provide assistance. The Director may recommend voluntary training for an individual or a work unit. The reported information will be maintained by the Office for Diversity, Equity and Inclusion for a period of 7 years. However, no written record will be forwarded to a student's education file or to an employee's official personnel file.
- The Director for Equity and Compliance may choose to move forward with the complaint process even if the Complainant withdraws their complaint or remains anonymous.

The Office for Diversity, Equity and Inclusion 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:

- Amount 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 failing to address the allegations, and
- Whether the allegations represent a possible pattern of behavior for the respondent.

Notification Procedure for employee as Respondent

1. If the complainant is a student enrolled at the time in the class of the respondent, he or she may request that notification and mediation be delayed until after the completion of the semester.
2. The Director for Equity and Compliance will send notification to the

Provost's office (for faculty) or Division Head (for other staff).

3. The Provost or Division Head will send a notification letter to the Respondent that summarizes the complaint.
4. When a formal investigation is to be conducted against a faculty member, Article 42 of the APSCUF collective bargaining agreement will also govern.

Investigations may take place at any time in the resolution process after notification to the respondent at the discretion of the Director for Equity and Compliance. The fact-finding procedure is not intended to interfere with any legal rights an employee or student has under the statutes and other laws of the Commonwealth of Pennsylvania or the government of the United States of America, or an employee's collective bargaining agreement.

Choice of Process by Complainant

There are two types of complaint-resolution mechanisms: a formal process that involves investigation and possible conduct proceedings, and an informal process that may or may not involve investigation and less formal procedures. The complainant initiates the formal or informal process, with the concurrence of the respondent, after filing a written complaint with the Office for Diversity, Equity and Inclusion.

Informal Process

The informal process includes efforts to mediate a resolution upon which both the complainant and the individual respondent can agree.

Upon receipt of the complaint, notification to the respondent of the allegations, the complainant's desire for mediation, and the respondent's concurrence to the informal process, the Director for Equity and Compliance for Equity and Compliance may facilitate a resolution or appoint a mediator(s) and 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 informal process.

1. The mediation may be conducted by separate discussions with the parties or in meetings with both parties present, depending on the circumstances and the mediator's best judgment.

2. If either party chooses to withdraw from the mediation process, the Director for Equity and Compliance will move forward with the formal complaint process.

3. At the conclusion of the mediation, the mediator(s) will provide a written statement of the resolution agreed to by both parties to the Director for Equity and Compliance. The informal resolution process may recommend the following types of outcomes, where appropriate: facilitating an agreement between the parties, separating the parties, referring the parties to counseling programs, conducting targeted educational and training programs, and mediation.

4. If the parties involved in the informal resolution process fail to reach a mutually agreeable outcome for the alleged conduct, the allegation will be resolved via the formal investigation process.

5. The Director for Equity and Compliance will send a written summary of the outcome to the parties.

6. If the Director for Equity and Compliance makes a determination that there is a need, the formal process may be initiated on behalf of the University at any time.

7. All written summaries of the informal complaint process will be maintained by the Office for Diversity, Equity and Inclusion for a period of 7 years. No written record will be forwarded to the employee's official personnel file and for employees who are respondents, a successful informal resolution will not result in disciplinary proceedings. For students who are respondents, the matter may be forwarded to the Office for Student Conduct.

8. Completed informal resolutions are binding and may not be appealed.

Formal process Involving Investigation and possible conduct proceedings

The complainant has the right, consistent with this policy's time frame, to file a formal complaint at any time during the informal process. However, once an informal resolution is reached, the result is binding and a formal complaint can no longer be pursued.

Formal procedures, which may result in a disciplinary proceeding, include a fact process. finding and review After accepting

a written formal complaint, the Director for Equity and Compliance will appoint a fact finder. When appropriate, as determined by the Director, two fact finders may be assigned to a case. The parties will be notified of the fact finder's identity. 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.

1. The investigation generally includes interviews with the parties, any relevant witnesses, and a review of relevant documents (text messages, emails, etc.). Participants in an investigation are advised that maintaining confidentiality is essential to protect the integrity of an investigation. At any time during the investigation, the investigator may recommend to the Director for Equity and Compliance that interim measures be provided to the Complainant, Respondent, or witnesses. Violations of these interim measures may be considered a separate violation of policy.

2. Employees whose positions are covered by collective bargaining units may request advocacy from their respective unions for an investigative interview. Representatives cannot question, answer, or provide advice during an interview or hearing. However, parties can request a brief recess to consult their representative.

3. During an investigative interview, the interviewee is expected to answer the questions, not his or her representation.

4. The investigator(s) will take notes during the interview and provide each participant with a summary of the interview for the purpose of review. Any substantive changes to the content after the review by the participant may be noted in the final report.

5. The investigation shall be completed as promptly as possible, and in most cases within fifty (50) business days of the date of the formal complaint was filed. A total of two attempts (by email, text, or phone) will be made to schedule investigative interviews. Failure to respond to scheduling requests will result in proceeding with the investigation without input from that individual.

6. At the conclusion of the investigation, the investigator will prepare a written report that includes a statement of the

allegations and issues, identification of facts, reviewed evidence, a determination of whether the alleged actions may have violated University policy using the preponderance of evidence standard, and any recommendations.

7. The fact finders will submit a report of their findings to the Director for Equity and Compliance. The Director will formulate an opinion as to whether there has been a violation of the University's Sexual Harassment or Sexual Misconduct Policy. If it is the opinion of the office that there is insufficient evidence to warrant a finding of a policy violation, the complainant and the respondent will be so notified, and the case will be closed. The Office for Diversity, Equity and Inclusion maintains the right to refer the case to other appropriate University officials if it appears that there may be violations of University's Misconduct Policy or other University policies.

If it is the opinion of the Director for Equity and Compliance that there is reasonable cause to believe that the University's Sexual Harassment or Sexual Misconduct Policy has been violated, the office will forward the investigative report and the Director's opinion to the appropriate manager. The Director for Equity and Compliance will forward the investigative report and the Director's opinion to the appropriate manager (for employee respondents) or to the Office of Student Conduct (for student respondents), who will follow appropriate University adjudication procedures. For student respondents, the procedures to be followed are outlined in the STUDENT CODE OF CONDUCT.

For employee respondents, the manager will utilize the existing University pre-disciplinary conference procedures ensuring that the respondent employee has the opportunity to be represented, if so desired, by his or her union representative during the pre-disciplinary conference. At the pre-disciplinary the respondent will have an opportunity to rebut the findings of the investigative report, and the opinion of the Director for Equity and Compliance. After completing the pre-disciplinary conference, the manager in consultation with the Associate Vice President and Chief Human Resources Officer and other University officials, as needed, will determine if discipline is appropriate and what level of discipline

should be imposed. Possible disciplinary actions for violation of the University's Sexual Harassment or Sexual Misconduct policy include oral or written reprimand, suspension, or termination of employment. The manager is not bound by the opinion of the Director for Equity and Compliance 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 notification that the complaint has been reviewed and addressed by University official. In addition to the internal complaint process, a complainant, may pursue the complaint with the appropriate external agencies.

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

The following procedures are followed when a case of alleged Dating Violence, Domestic Violence, Sexual Assault, or Stalking does not fall under the Sexual Misconduct Policy and the Respondent is a student.

Please note, in cases involving infliction or threat of violence, or a sexual misconduct allegation, any party may request in advance a remote hearing format or a screen to separate the complainant and the respondent.

At a formal hearing that is initially scheduled or requested by a student or student group, the following procedure will be followed to the extent possible:

1. The hearing facilitator shall open the proceedings by reading the statement of alleged violations and confirming the student or student group's statement of responsibility or non-responsibility to the alleged violations.
2. Before presenting any testimony, each person must submit to an oath where they swear and affirm the truth of statements to be made. For remote hearings all participants, including the board and the hearing facilitators, must pan their

space to ensure no one else is present to hear testimony.

3. For cases involving an organization, the organization's leader (or designee) will serve in the role of respondent. The leader will respond to the alleged allegations and indicate whether the organization is responsible for all some or none of the alleged violations. The leader may question witnesses as well as present the organization's response to the alleged violations.
4. The University Case Presenter shall then present their case against the respondent. This shall be done by the submission of written, physical, and/or testimonial evidence.
5. At the conclusion of the University Case Presenter's presentation, the respondent shall present a response to the allegations. This shall be done by the submission of written, physical, and/or testimonial evidence.
6. At the close of the hearing, the hearing facilitator will allow closing statements by the parties, which may include rebuttal comments.
 - a. Any person who commits an action that interrupts the proceedings or refuses to comply with a reasonable order of the hearing officer/board shall be subject to removal from the hearing.
 - b. All matters upon which the decision of responsibility will be based must be introduced into evidence at the hearing.
 - c. All formal hearings will be recorded and subject to the Disciplinary Records and Retention policy (Section VI). Maintenance of a written or audiotape record of the hearing will be done at the University's expense, but students may be required to pay the cost of copies of requested records. If such records contain sensitive or confidential information, a request for a copy will be denied. Personal recording of the hearing is prohibited and subject to criminal prosecution.
 - d. Case resolution will be based upon evidence sufficient to make a reasonable person believe that the facts sought to be proven are more likely true than not, otherwise known as preponderance of the evidence.
 - e. Once responsibility is determined, in

addition to testimony and evidence presented at a conduct meeting or hearing, a hearing officer/board may consider the following elements before rendering a sanction:

- i) Academic records and class year.
- ii) The nature and severity of previous discipline records including that which is public record;
- iii) Attitude of the respondent during the conduct meeting and/or hearing;
- iv) Whether the sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation on the complainant and the University community.
- v) In group cases, the board may determine responsibility and elect to refer the finding back to the Office of Student Conduct for sanctioning and sanctioning decisions. Sanctioning decisions may involve the national or group administration or other pertinent University staff.

The University retains the right to continue a hearing whenever necessary and appropriate. Any students or student group who fail to appear at a scheduled hearing consent to the conducting of said hearing in their absence. Should the student be suspended or expelled as a result, they may request a de novo hearing during the time of the appeal period as noted in the outcome letter.

If during or after the conduct process it is determined that individuals intentionally misrepresented the facts of the case in their testimony, they may be referred to the Office of Student Conduct or appropriate University office. If this misrepresentation is discovered after a hearing, the Office of Student Conduct, in consultation with the hearing officer/board, will review the evidence to determine whether the case should be reopened and/or a new hearing scheduled.

The Office of Student Conduct will issue a written statement of the findings of fact and reasons for the decision (referred to as an "Outcome Letter") to the respondent within 30 business days after the close of the hearing.

Pending action on the allegations, the

student's status shall not be altered nor shall the student's right to be present on University property or to attend classes be suspended, except for reasons relating to their physical or emotional safety and well-being or for reasons relating to the safety of students, employees, personnel, or University property (See Sanction Interim Action Provision).

Appeals

Upon receiving an Outcome Letter from the hearing officer/board or a dismissal of a Formal Complaint (or any allegations or a determination of responsibility) from the Title IX Coordinator, each Party may appeal on the following grounds:

- A procedural irregularity under the University policy or procedures that affected the hearing outcome.
- New evidence that was not reasonably available through the exercise of reasonable diligence at the time of the hearing or dismissal of the Formal Complaint that could affect the outcome of the matter.
- The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- The Disciplinary Sanction imposed was grossly disproportionate to the violation(s).

All appeals must be made in writing by the published appeal date (5) five days noted on the outcome letter and submitted via the Office of Student Conduct Outcome Appeal. The appeal should explain in detail the basis of the request, including any supporting documentation. With the exception of interim measures, upon receipt of the written appeal, the Office of Student Conduct will defer the imposition of the sanction(s) pending the outcome of the appeal process.

The appeals of group misconduct by groups who are affiliated with a national or international organization must be accompanied by a letter of support for the appeal.

B. Supportive Measures and remote learning opportunities remain available during the pendency of the appeal.

C. If a party appeals in a sexual misconduct case, the University will notify the other party in writing of the appeal as soon as practicable, however the time for appeal shall be offered equitably to all parties

and shall not be extended for any party solely because the other party filed an appeal. If the basis of the appeal is that the Disciplinary Sanction imposed was grossly disproportionate to the violation(s), the other Party will be given 5 days to respond to the appeal after being notified.

D. Appeals will be decided by a University Appeals Board, who will be free of conflict of interest and bias, and will not serve as an Investigator, Title IX Coordinator, Advisor or Decision Maker in the same matter.

E. The appealing party must meet its burden to demonstrate the outcome was affected by a preponderance of the evidence. The role of the University Appeals Board is not to reweigh the evidence. The Appeals process will confine their review to the basis of appeal alleged and may modify the sanction or in the event of new information, remand back to the original hearing board to reweigh the new evidence. The University Appeals Board may modify the Disciplinary Sanction if an appeal on the basis of the severity of the sanction is grossly disproportionate to the violation(s). Disciplinary Sanction being imposed is granted. In the event a Disciplinary Sanction is modified and the case involves sexual misconduct, the other party will be notified of the modified Disciplinary Sanction.

F. In cases involving sexual misconduct, the outcome of appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision.

G. Appeals will be forwarded to a University Appeals Board for review in a timely manner. Appeal Boards are comprised of one professional staff member, one faculty member, and one student chosen from active members of the University Hearing Board. When necessary, a University Hearing Board may be convened by a quorum. A quorum in this case would be a combination of at least two of the previously mentioned individuals.

a. The Appeals Board will review the written appeal and all documentation contained within the student's or group's disciplinary file.

b. The Board is not obligated to reconvene a hearing if a violation of procedure is found. However, if a new hearing is granted, the same procedures used for the original hearing will be followed. All meetings and hear-

ings of the appeal process are closed proceedings.

- c. The Appeals Board by a simple majority vote will uphold the sanction, modify the sanction, or order a new hearing.

H. A second level appeal may be made to the Vice President for Student Affairs or their designee to review the appeal decision. An appeal to the Vice President for Student Affairs must be presented within five (5) business days of formal notification of the appeal decision. This must be submitted in writing via the Office of Student Conduct Outcome Appeal Form found in the outcome letter and online.

- An appeal to the Vice President for Student Affairs must include clear reasons to overrule the decision of the first appeal. An appeal to the Vice President for Student Affairs should include information to support the following reasons for the appeal:
- A procedural irregularity under the University policy or procedures that affected the hearing outcome.
- New evidence that was not reasonably available through the exercise of reasonable diligence at the time of the hearing or dismissal of the Formal Complaint that could affect the outcome of the matter.
- The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- The Disciplinary Sanction imposed was grossly disproportionate to the violation(s). The student petitioning for a second-level appeal will be notified of the decision of the Vice President for Student Affairs, or designee, within a reasonable period of time. The second level appeal is the final step in the West Chester University process.

Confidentiality

West Chester University will protect the identity of persons who report having been survivors of sexual assault, domestic violence, dating violence, or stalking to the fullest extent of the law and as previously mentioned in this document.

Additional University initiated protective measures

The Title IX Coordinator or their designee will determine whether interim interventions and interim and permanent protective

measures should be implemented, and, if so, take steps to implement those protective measures as soon as possible.

Examples of interim protective measures include but are not limited to a University order of no contact, residence hall relocation, adjustment of course schedules, a leave of absence, or reassignment to a different supervisor or position.

These remedies may be applied to one, both, or multiple parties involved. Violations of the Title IX Coordinator's directives and/or protective measures will constitute related violations that may lead to additional disciplinary action. Protective measures imposed may be temporary pending the results of an investigation or may become permanent as determined by West Chester University.

Federal timely warning notification

Victims of Dating Violence, Domestic Violence, Sexual Assault, and Stalking should be aware that West Chester University administrators must issue timely warnings for incidents reported that pose a serious or continuing threat to members of the campus community. West Chester University will ensure that a victim's name and other identifying information is not disclosed when such warnings are issued, while still providing enough information for community members to make safety decisions for themselves.

Sex offender registry

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, volunteers services or is a student. A list of all registered sex offenders in Pennsylvania is available at: www.pameganslaw.state.pa.us/.

How to File a Disciplinary Complaint Under this Policy

The complainant has the right, consistent with this policy's timeframe, 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

(800) 669-4000 (300 days.)

Procedure for Employee Complaints

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.

Title IX Coordinator

Lynn Klingensmith
Office of Diversity, Equity, and Inclusion
(610) 436-2513

Director of Women's Center

West Chester University:
Dr. Sindy Guerrier Alcidonis
(610) 436-2122

Assistant Dean for Student Conduct

Ruby Jones – Room 200
(610) 436-3511

Director Human Resource Services

West Chester University:
William J. Helzlsouer
(610) 436-5653

See the host University Annual Security Report for more information on the above process. 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.

Confidentiality

West Chester University will protect the identity of persons who report having been survivors of sexual assault, domestic violence, dating violence, or stalking to the fullest extent of the law and as previously mentioned in this document.

APPENDIX A

PASSHE CENTER CITY, PHILADELPHIA CLERY ACT STATISTICS

ARRESTS & DISCIPLINARY REFERRALS	YEAR	ON CAMPUS	RESIDENTIAL FACILITIES (SUBSET OF ON CAMPUS)	NON CAMPUS	PUBLIC PROPERTY
LIQUOR LAW VIOLATIONS (ARREST)	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
LIQUOR LAW VIOLATIONS (REFERRALS FOR CAMPUS DISCIPLINARY ACTION)	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
DRUG LAW VIOLATIONS (ARREST)	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
DRUG LAW VIOLATIONS (REFERRALS FOR CAMPUS DISCIPLINARY ACTION)	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
WEAPONS VIOLATIONS (ARRESTS)	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
WEAPONS VIOLATIONS (REFERRALS FOR CAMPUS DISCIPLINARY ACTION)	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

There were zero unfounded complaints in 2018, zero unfounded complaints in 2019 and zero unfounded complaints in 2020.

1. On Campus – Any Building or property owned or controlled by the University within the same reasonably contiguous geographic area and used by the University in direct support of, or in a manner related to, the University’s educational purposes. University residence halls are included with this definition. Any building or property that is within or reasonably contiguous to the areas described above that supports University purposes and that is: owned by the University but controlled by another person or entity; or is frequently used by students.
2. Residential Facilities – Dormitories or other residential facilities for students on campus is a subset of the On-Campus Category. Statistics from this category are repeated in the On-Campus column.
3. Non-Campus – Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students and is not within the same reasonably contiguous geographic area of the institution.
4. Public Property – All public property, including thoroughfares, streets and sidewalks that is within the campus or immediately adjacent to and accessible from the campus. Data collected and reported by the City of Philadelphia Police Department.

**There are no residential facilities at the PASSHE Center City Campus.*

► DEFINITIONS & TERMS FOR ALL CATEGORIES – PLEASE SEE APPENDIX C

PASSHE CENTER CITY CAMPUS—CLERY ACT STATISTICS

REPORTABLE CRIME CATEGORIES	YEAR	ON CAMPUS	RESIDENTIAL FACILITIES	NON-CAMPUS	PUBLIC PROPERTY
CRIMINAL HOMICIDE: NON-NEGLECT MANSLAUGHTER	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
CRIMINAL HOMICIDE: MANSLAUGHTER BY NEGLIGENCE	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
SEX OFFENSES RAPE	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
SEX OFFENSES FONDLING	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
SEX OFFENSES INCEST	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
SEX OFFENSES STATUTORY RAPE	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
ROBBERY	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
AGGRAVATED ASSAULT	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
BURGLARY	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Motor Vehicle Theft	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
ARSON	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0

This table contains crimes reported to the City of Philadelphia Police Department and campus officials. These reports of crime are compiled in accordance with the provisions of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, commonly known as the “Clery Act.” The Clery Act is a federal law that requires all Post-secondary educational institutions participating in federal student financial aid programs to publicly disclose crime statistics and crime prevention/security policies for their campuses every year.

PASSHE CENTER CITY CAMPUS— CLERY ACT STATISTICS VAWA OFFENSES

REPORTABLE CRIME CATEGORIES	YEAR	ON CAMPUS	RESIDENTIAL FACILITIES	NON-CAMPUS	PUBLIC PROPERTY
Domestic Violence	2018	0	0	0	0
Domestic Violence	2018	0	0	0	0
Domestic Violence	2018	0	0	0	0
Dating Violence	2019	0	0	0	0
Dating Violence	2019	0	0	0	0
Dating Violence	2019	0	0	0	0
Stalking	2020	0	0	0	0
Stalking	2020	0	0	0	0
Stalking	2020	0	0	0	0

PASSHE CENTER CITY CAMPUS – HATE CRIME REPORTING

No Hate Crimes have been reported for the PASSHE Center City Campus during this reporting period of 2017, 2018, and 2019.

PASSHE CENTER CITY CAMPUS – UNFOUNDED REPORTING

There were zero unfounded crimes in 2018, zero unfounded crimes in 2019 and zero unfounded crimes in 2020.

UNIFORM CRIME REPORTS—PART I OFFENSES—PASSHE CENTER CITY CAMPUS

The PASSHE Philadelphia Campus is required to report crimes under the Uniform Crime Reporting System in addition to the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. Due to differences in crime classifications and their definitions, reported statistics in the two reports are generally not comparable.

REPORTABLE CRIME CATEGORIES	YEAR	REPORTED OFFENSES	FULL TIME EQUIVALENT (FTE)*	OFFENSE RATIO
HOMICIDE:MURDER & NON-NEGLIGENT MANSLAUGHTER	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
HOMICIDE: NEGLIGENT MANSLAUGHTER	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
RAPE	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
ROBBERY	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
AGGRAVATED ASSAULT	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
BURGLARY	2018	0	286	0
	2019	0	211	0
	2020	0	191	0

LARCENY	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
MOTOR VEHICLE THEFT	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
ARSON	2018	0	286	0
	2019	0	211	0
	2020	0	191	0

* The offense ratio is based on the actual number of full-time equivalent (FTE) students and employees, which is calculated according to a state-mandated formula. The FTE figure in the table above is based on incidents reported per 100,000 FTEs. Standard rounding rules are applied.

UNIFORM CRIME REPORTS- PART II OFFENSES - PASSHE CENTER CITY CAMPUS

REPORTABLE CRIME CATEGORIES	YEAR	REPORTED OFFENSES	FULL TIME EQUIVALENT (FTE)*	OFFENSE RATIO
OTHER ASSAULTS	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
FORGERY	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
FRAUD	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
EMBEZZLEMENT	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
RECEIVING STOLEN PROPERTY	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
VANDALISM	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
WEAPONS OFFENSES	2018	0	286	0
	2019	0	211	0
	2020	0	191	0

PROSTITUTION	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
SEX OFFENSES	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
DRUG OFFENSES	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
GAMBLING	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
OFFENSES AGAINST FAMILY	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
EMBEZZLEMENT	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
DRIVING UNDER THE INFLUENCE	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
LIQUOR LAW VIOLATIONS	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
PUBLIC DRUNKENNESS	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
DISORDERLY CONDUCT	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
VAGANCY	2018	0	286	0
	2019	0	211	0
	2020	0	191	0
ALL OTHER OFFENSES	2018	0	286	0
	2019	0	211	0
	2020	0	191	0

* The offense ratio is based on the actual number of full-time equivalent (FTE) students and employees, which is calculated according to a state-mandated formula. The FTE figure in the table above is based on incidents reported per 100,000 FTEs. Standard rounding rules are applied.

CLERY DESIGNATED DEFINITIONS

Clery designated crime definitions

PASSHE Center City is required to report crime statistics as defined by the Clery Act for the following crimes if the crimes are reported and occur in geographic locations as defined above.

1. **Homicide: Murder/Non-Negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.
2. **Homicide: Manslaughter by Negligence-** The killing of another person through gross negligence.
3. **Sex Offenses:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - a. **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - b. **Fondling:** The touching of the private body parts of another person 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 age or because of his/her temporary or permanent mental incapacity.
 - c. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - d. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
8. **Robbery:** The taking or attempting to take anything of value 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.
9. **Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or

aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that the injury result from an aggravated assault when a gun, knife, or other weapon is used which would and probably would result in serious personal injury if the crime were successfully completed).

10. **Burglary:** The unlawful entry of a structure to commit a felony or a theft.
11. **Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle.
12. **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.

Clery designated hate crime definitions

1. **Hate Crime** – A crime reported to local police agencies or to a campus security authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of Clery, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability.
2. **Bias** – A preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, disability, sexual orientation, ethnicity, or national origin.
3. **Race (Bias)** – A preformed negative attitude toward a group of persons who possess common physical characteristics (e.g. color of skin, eyes, and/or hair; facial features, etc.) genetically transmitted by descent and heredity, which distinguish them as a distinct division of humankind (e.g. Asians, blacks, whites).
4. **Gender (Bias)** – A preformed negative opinion or attitudes toward a group of persons because those persons are male or female.
5. **Gender Identity (Bias)** – A preformed negative opinion or attitude toward an individual or group because of actual or perceived gender-related characteristics.
6. **Religion (Bias)** – 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 (e.g. Catholics, Jews, Protestants, atheists).
7. **Sexual Orientation (Bias)** – A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex.
8. **Ethnicity (Bias)** – A preformed negative opinion or attitude toward a group of persons who share common or similar traits, languages, customs, and traditions (e.g. Arabs, Hispanics).
9. **National Origin (Bias)** – A preformed negative opinion or attitude toward a group of persons who are from a particular country or part of the world.
10. **Disability (Bias)** – A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/ challenges, whether such disability is temporary or permanent, congenital, or acquired by heredity, injury, advanced age or illness.
11. **Larceny-theft** – The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession (position to exercise control over a thing regardless of possession) of another.
12. **Simple assault** – The attack by one person upon another without a weapon, no obvious severe or aggravated bodily injury involving broken bones, loss of teeth, internal injury, severe laceration, or loss of consciousness.
13. **Intimidation** – To place a person in reasonable fear of bodily harm through use of threatening words and/or other conduct without displaying a weapon or subjecting the victim to actual physical attack.
14. **Destruction/damage/vandalism of property** – To willfully and maliciously destroy, damage, deface, or otherwise injure real or personal property without owner's consent or the person who has control or custody of it.

Clery designated definitions and terms: arrests and disciplinary referrals

1. **Drug Law Violations** – The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.
2. **Liquor Law Violations** – The violation of State or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.
3. **Weapons Law Violations (Carrying, Possession, Etc.)** – The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.
4. **Referral for Campus Disciplinary Action** – The referral of any person to a campus official who initiates a disciplinary action of which a record is kept, and which may result in the imposition of a sanction.

Uniform Crime Reporting definitions

Under the Pennsylvania College and University Security Information Act, PASSHE Center City is required to report crime statistics as defined by the Uniform Crime Reporting Program for the following crimes if the crimes are reported and occur on the property owned or controlled by the State System. The Uniform Crime Reporting (UCR) program divides offenses into two groups, Part I and Part II crimes. Each month the Philadelphia Police Department submits information on the number of Part I and Part II offenses known to law enforcement; those offenses cleared by arrest or exceptional means; and the age, sex, and race of persons arrested for each of the offenses.

The Part I Offenses are:

Murder and non-negligent

manslaughter – The willful (non-negligent) killing of one human being by another. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, and accidental deaths are excluded. The program classifies justifiable homicides separately and limits the definition to: (1) the killing of a felon by a law enforcement officer in the line of duty; or (2) the killing of a felon, during the commission of a felony, by a private citizen. b.) Manslaughter by negligence: the killing of another person through gross negligence. Traffic fatalities are excluded.

Rape – The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Robbery – The taking or attempted taking of anything of value 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 assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.

Burglary (breaking or entering) – The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

Larceny – theft (except motor vehicle theft) The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket picking, or the stealing of any property or article that is not taken by force and violence or by fraud. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

Motor vehicle theft – The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on land surface and not on rails. Motorboats, construction equipment, airplanes, and farming equipment are specifically excluded from this category.

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.

The Part II offenses are:

Other assaults (simple) -Assaults and attempted assaults which are not of an aggravated nature and do not result in serious injury to the victim.

Forgery and counterfeiting – The altering, copying, or imitating of something, without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine; or the selling, buying, or possession of an altered, copied, or imitated thing with the intent to deceive or defraud. Attempts are included.

Fraud – The intentional perversion of the truth for the purpose of inducing another person or other entity in reliance upon it to part with something of value or to surrender a legal right. Fraudulent conversion and obtaining of money or property by false pretenses, confidence games and bad checks, except forgeries and counterfeiting, are included.

Embezzlement – The unlawful misappropriation or misapplication by an offender to his/her own use or purpose of money, property, or some other thing of value entrusted to his/her care, custody, or control.

Stolen property, buying, receiving, possessing – Buying, receiving, possessing, selling, concealing, or transporting any property with the knowledge that it has been unlawfully taken, as by burglary, embezzlement, fraud, larceny, robbery, etc. Attempts are included.

Vandalism – To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law. Attempts are included.

Weapons; carrying, possessing, etc. – The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. Attempts are included.

Prostitution and commercialized vice – The unlawful promotion of or participation in sexual activities for profit, including attempts.

Sex offenses (except forcible rape, prostitution, and commercialized vice) – Statutory rape, offenses against chastity, common decency, morals, and the like. Attempts are included.

Drug abuse violations – The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The following drug categories are specified: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics – manufactured narcotics that can cause true addiction (Demerol, Methadone); and dangerous non-narcotic drugs (Barbiturates, Benzedrine).

Gambling – To unlawfully bet or wager money or something else of value; assist, promote, or operate a game of chance for money or some other stake; possess or transmit wagering information; manufacture, sell, purchase, possess, or transport gambling equipment, devices, or goods; or tamper with the outcome of a sporting event or contest to gain a gambling advantage.

Offenses against the family and children – Unlawful nonviolent acts by a family member (or legal guardian) that threaten the physical, mental, or economic well-being or morals of another family member and that are not classifiable as other offenses, such as Assault or Sex Offenses. Attempts are included.

Driving under the influence – Driving or operating a motor vehicle or common carrier while mentally or physically impaired as the result of consuming an alcoholic beverage or using a drug or narcotic.

Liquor Laws – The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness. Federal violations are excluded.

Drunkenness – To drink alcoholic beverages to the extent that one's mental faculties and physical coordination are substantially im-

paired. Excludes driving under the influence.

Disorderly conduct – Any behavior that tends to disturb the public peace or decorum, scandalizes the community, or shocks the public sense of morality.

Vagrancy – The violation of a court order, regulation, ordinance, or law requiring the withdrawal of persons from the streets or other specified areas; prohibiting persons from remaining in an area or place in an idle or aimless manner; or prohibiting persons from going from place to place without visible means of support.

All other offenses – All violations of state or local laws not specifically identified as Part I or Part II offenses, except traffic violations.

APPENDIX C

DEFINITION OF TERMS AS DEFINED BY PENNSYLVANIA STATE CRIMINAL STATUTES

Consent is defined in Pennsylvania Criminal Law as;

311. Consent.

A. GENERAL RULE. The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negates an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

B. CONSENT TO BODILY INJURY. When conduct is charged to constitute an offense because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury is a defense if:

1. The conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or
2. The consent establishes a justification for the conduct under Chapter 5 of this title. (Relating to general principles of justification).

C. INEFFECTIVE CONSENT. Unless otherwise provided by this title or by the law defining the offense, assent does not constitute consent if:

1. It is given by a person who is legally incapacitated to authorize the conduct

charged to constitute the offense.

2. It is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;
3. It is given by a person whose improvident consent is sought to be prevented by the law defining the offense; or
4. It is induced by force, duress or deception of a kind sought to be prevented by the law defining the offense.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1992-24 (S.B.3), PL.108, 17, approved Apr.13, 1992, eff. in 60 days.

Sexual assault is defined under the following statutes in Pennsylvania criminal code: PA Crimes Code CHAPTER 31.

SEXUAL OFFENSES

SUBCHAPTER A. GENERAL PROVISIONS SUBCHAPTER B. DEFINITION OF OFFENSES SUBCHAPTER C. LOSS OF PROPERTY RIGHTS

SUBCHAPTER A. GENERAL PROVISIONS

- 3101. Definitions.
- 3102. Mistake as to age.
- 3104. Evidence of victim's sexual conduct.
- 3105. Prompt complaint.
- 3106. Testimony of complainants.
- 3107. Resistance not required.
- 3101. Definitions.

Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific provisions of this chapter, the following words and phrases used in this chapter shall have, unless the context clearly states otherwise, the meanings given to them in this section.

COMPLAINANT – An alleged victim of a crime under this chapter.

DEVIATE SEXUAL INTERCOURSE – Sexual intercourse per os (per mouth) or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

FORCIBLE COMPULSION – Compulsion by use of physical, intellectual, moral, emotional, or psychological force, either express or implied. The term includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse.

FOREIGN OBJECT – Includes any physical object not a part of the actors' body.

INDECENT CONTACT – Any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in either person.

SERIOUS BODILY INJURY – As defined in section 2301 (relating to definitions).

SEXUAL INTERCOURSE – In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1984-230 (H.B. 281), PL. 1210, 1, approved Dec. 21, 1984, eff. immediately; Act 1990-4 (H.B. 1120), PL. 6, 4, approved Feb. 2, 1990, eff. in 60 days; Act 1995 Special

Session-10 (S.B. 2), PL. 985, 1, approved Mar. 31, 1995, See section of this act for effective date information; Act 2002-162 (H.B.976), PL. 1350, 1, approved Dec. 9, 2002, eff. In 60 days; Act 2002-226 (S.B. 1402), PL. 1953, 1, approved Dec. 16, 2002, eff. in 60 days.

3102. Mistake as to Age

Except as otherwise provided, whenever in this chapter the criminality of conduct depends on a child being below the age of 14 years, it is no defense that the defendant did not know the age of the child or reasonably believed the child to be the age of 14 years or older. When criminality depends on the child's being below a critical age older than 14 years, it is a defense for the defendant to prove by a preponderance of the evidence that he or she reasonably believed the child to be above the critical age.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B.580), PL. 120, 1, approved May 18, 1976, eff. In 30 days; Act 1995 Special Session-10 (S.B. 2), PL. 985, 1, approved Mar. 31, 1995, See section of this act for effective date information.

3104. Evidence of Victims Sexual Conduct.

A. GENERAL RULE. Evidence of specific instances of the alleged victims past sexual conduct, opinion evidence of the alleged victims past sexual conduct, and reputation evidence of the alleged victims past sexual conduct shall not be admissible in prosecutions under this chapter except evidence of the alleged victims past sexual conduct with the defendant where consent of the alleged victim is at issue and such evidence is otherwise admissible pursuant to the rules of evidence.

B. EVIDENTIARY PROCEEDINGS. A defendant who proposes to offer evidence of the alleged victims past sexual conduct pursuant to subsection (a) shall file a written motion and offer of proof at the time of trial. If, at the time of trial, the court determines that the motion and offer of proof are sufficient on their faces, the court shall order an in camera hearing and shall make findings on the record as to the relevance and admissibility of the proposed evidence pursuant to the standards set forth in subsection (a). *Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B.580), PL. 120, 1, approved May 18, 1976, eff. In 30 days.*

3105. Prompt Complaint.

Prompt reporting to public authority is not required in a prosecution under this chapter: Provided, however, that nothing in this section shall be construed to prohibit a defendant from introducing evidence of the complainant's failure to promptly report the crime if such evidence would be admissible pursuant to the rules of evidence.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B.580), PL. 120, 1, approved May 18, 1976, eff. In 30 days; Act 1995 Special Session-10 (S.B. 2), PL. 985, 3, approved Mar. 31, 1995, See section of this act for effective date information.

3106. Testimony of Complainants.

The credibility of a complainant of an offense under this chapter shall be determined by the same standard as is the credibility of a complainant of any other crime. The testimony of a complainant need not be corroborated in prosecutions under this chapter. No instructions shall be given cautioning the jury to view the complainant's testimony in any other way than that in which all complainants' testimony is viewed.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B.580), PL. 120, 2, approved May 18, 1976, eff. In 30 days; Act 1995 Special Session-10 (S.B.2), PL. 985, 3, approved Mar. 31, 1995, See section of this act for effective date information.

3107. Resistance not Required.

The alleged victim need not resist the actor in prosecutions under this chapter: Provided, however, that nothing in this section shall be construed to prohibit a defendant from introducing evidence that the alleged victim consented to the conduct in question.

Act 1976-53 (H.B. 580), PL. 120, 2, approved May 18, 1976, eff. in 30 days.

SUBCHAPTER B. DEFINITION OF OFFENSES

3121. Rape.

3122.1. Statutory sexual assault.

3123. Involuntary deviate sexual intercourse.

3124.1. Sexual assault.

3124.2. Institutional sexual assault.

3125. Aggravated indecent assault.

3126. Indecent assault.

3127. Indecent exposure.

3129. Sexual intercourse with animal.

3130. Conduct relating to sex offenders. [Effective until December 20, 2012]

3130. Conduct relating to sex offenders [Effective December 20, 2012]

3121. Rape

A. OFFENSE DEFINED. A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

1. By forcible compulsion.
2. By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
3. Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.
4. Where the person has substantially impaired the complainants' power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants, or other means for the purpose of preventing resistance.
5. Who suffers from a mental disability which renders the complainant incapable of consent.
6. (Deleted by amendment).

B. ADDITIONAL PENALTIES. In addition to the penalty provided for by subsection;

1. a person may be sentenced to an additional term not to exceed ten years confinement and an additional amount not to exceed \$100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainants power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

C. RAPE OF A CHILD. A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.

D. RAPE OF A CHILD WITH SERIOUS BODILY INJURY. A person commits the offense of rape of a child resulting in serious bodily injury, a

felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.

E. SENTENCES. Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

1. Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years
2. Subsection (d) shall be sentenced up to a maximum term of life imprisonment.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1984-230 (H.B. 281), PL. 1210, 1, approved Dec. 21, 1984, eff. in 60 days; Act 1995 Special Session-10 (S.B.2), PL. 985, 3, approved Mar. 31, 1995, See section of this act for effective date information; Act 1997-65 (H.B. 1125), PL. 621, 2, approved Dec. 19, 1997, eff. in 60 days; Act 2002-162 (H.B.976), PL. 1350, 2, approved Dec. 9, 2002, eff. in 60 days; Act 2002-226 (S.B. 1402), PL. 1953, 1.1, approved Dec. 16, 2002, eff. in 60 days.

3122.1. Statutory Sexual Assault.

A. FELONY OF THE SECOND DEGREE.

Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:

1. Four years older but less than eight years older than the complainant; or
2. Eight years older but less than 11 years older than the complainant.

B. FELONY OF THE FIRST DEGREE.

A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.

Act 1995 Special Session-10 (S.B. 2), PL. 985, 5, approved Mar 31, 1995, See section of this act for effective date information; Act 2011-111 (S.B.1183), 1, approved Dec. 20, 2011, eft. in 60 days.

3123. Involuntary Deviate Sexual Intercourse. (a)

A. OFFENSE DEFINED. A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:

1. by forcible compulsion.
2. by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
3. who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.
4. where the person has substantially impaired the complainants' power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
5. who suffers from a mental disability which renders him or her incapable of consent; or (6) (Deleted by amendment).
6. who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.

B. INVOLUNTARY DEVIATE SEXUAL INTERCOURSE WITH A CHILD. A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.

C. INVOLUNTARY DEVIATE SEXUAL INTERCOURSE WITH A CHILD WITH SERIOUS BODILY INJURY. A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.

D. SENTENCES. Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

1. Subsection (b) shall be sentenced to a term of imprisonment which shall be

fixed by the court at not more than 40 years.

2. Subsection (c) shall be sentenced up to a maximum term of life imprisonment.

E. DEFINITION. As used in this section, the term forcible compulsion includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1995 Special Session-10 (S.B. 2), PL. 985, 6, approved Mar 31, 1995, See section of this act for effective date information; Act 2002-162 (H.B. 976), PL. 1350, 2, approved Dec. 9, 2002, eff. in 60 days; Act 2002-226 (S.B. 1402), PL. 1953, 1.1, approved Dec. 16, 2002, eff. in 60 days.

3124.1. Sexual assault.

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.

Act 1995 Special Session-10 (S.B. 2), PL. 985, 8, approved Mar 31, 1995, See section of this act for effective date information.

3124.2. Institutional Sexual Assault.

A. GENERAL RULE. Except as provided under subsection (a.1) and in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident.

A.1. INSTITUTIONAL SEXUAL ASSAULT OF A MINOR. A person who is an employee or agent of the Department

of Corrections or a county correctional authority, youth development center, youth forestry camp, state or county juvenile detention facility, other licensed residential facility serving children and youth or a mental health or a mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, patient or resident who is under 18 years of age.

A.2. SCHOOLS.

1. Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a school or any other person who has direct contact with a student at a school commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a student of the school.

2. As used in this subsection, the following terms shall have the meanings given to them in this paragraph:

- a. Direct contact. Care, supervision, guidance, or control.

- b. Employee. (A) Includes:

- i. A teacher, a supervisor, a supervising principal, a principal, an assistant principal, a vice-principal, a director of vocational education, a dental hygienist, a visiting teacher, a home and school visitor, a school counselor, a child nutrition program specialist, a school librarian, a school secretary the selection of whom is on the basis of merit as determined by eligibility lists, a school nurse, a substitute teacher, a janitor, a cafeteria worker, a bus driver, a teacher aide and any other employee who has direct contact with school students.

- ii. An independent contractor who has a contract with a school for the purpose of performing a service for the school, a coach, an athletic trainer, a coach hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association or an athletic trainer hired as an independent

contractor by the Pennsylvania Interscholastic Athletic Association.

B. The term does not include:

1. A student employed at the school.
2. An independent contractor or any employee of an independent contractor who has no direct contact with school students.
3. School. A public or private school, intermediate unit, or area vocational-technical school.
4. Volunteer. The term does not include a school student.

(a.3) **CHILD CARE.** Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a center for children commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is receiving services at the center.

C. DEFINITIONS. As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

Agent. A person who is assigned to work in a State or county correctional or juvenile detention facility, a youth development center, youth forestry camp, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution, who is employed by any State or county agency or any person employed by an entity providing contract services to the agency.

Center for children. Includes a child day-care center, group and family day-care home, boarding home for children, a center providing early intervention and drug and alcohol services for children or other facility which provides child-care services which are subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with the department or a county social services agency. The term does not include a youth development center, youth forestry camp, State or county juvenile detention facility and other licensed residential facility serving children and youth.

Act 1998-157 (H.B. 689), PL. 1240, 1, approved Dec. 21, 1998, eff. in 60 days; Act 2000-12 (S.B. 1047), PL. 38, 1, approved

May 10, 2000, *eff. immediately*; Act 2011-111 (S.B. 1183), 1, approved Dec. 20, 2011, *eff. in 60 days*.

3125. Aggravated Indecent Assault.

A. OFFENSES DEFINED. Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:

1. the person does so without the complainants consent.
2. the person does so by forcible compulsion.
3. the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
4. the complainant is unconscious, or the person knows that the complainant is unaware that the penetration is occurring.
5. the person has substantially impaired the complainants' power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.
6. the complainant suffers from a mental disability which renders him or her incapable of consent.
7. the complainant is less than 13 years of age; or
8. the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

B. AGGRAVATED INDECENT ASSAULT OF A CHILD. A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.

C. GRADING AND SENTENCES.

1. An offense under subsection (a) is a felony of the second degree.
2. An offense under subsection (b) is a felony of the first degree.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1973-117 (S.B. 513), PL. 341, 1, approved Nov. 28, 1973, eff. in 60 days; Act 1990-4 (H.B. 1120), PL. 6, 5, approved Feb. 2, 1990, eff. in 60 days; Act 1995 Special Session-10 (S.B. 2), PL. 985, 9, approved Mar. 31, 1995, See section of this act for effective date information; Act 2002-162 (H.B.976), PL. 1350, 2, approved Dec. 9, 2002, eff. in 60 days; Act 2002-226 (S.B. 1402), PL. 1953, 1.1, approved Dec. 16, 2002, eff. in 60 days.

3126. Indecent Assault.

A. OFFENSE DEFINED. A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:

1. the person does so without the complainants consent.
2. the person does so by forcible compulsion.
3. the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
4. the complainant is unconscious, or the person knows that the complainant is unaware that the indecent contact is occurring.
5. the person has substantially impaired the complainants' power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
6. the complainant suffers from a mental disability which renders the complainant incapable of consent.
7. the complainant is less than 13 years of age; or

8. the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

B. GRADING. Indecent assault shall be graded as follows:

1. An offense under subsection (a) (1) or (8) is a misdemeanor of the second degree.
2. An offense under subsection (a)(2), (3), (4), (5) or (6) is a misdemeanor of the first degree. (3) An offense under subsection (a)(7) is a misdemeanor of the first degree unless any of the following apply, in which case it is a felony of the third degree:
 - i. It is a second or subsequent offense.
 - ii. There has been a course of conduct of indecent assault by the person.
 - iii. The indecent assault was committed by touching the complainant's sexual or intimate parts with sexual or intimate parts of the person.
 - iv. The indecent assault is committed by touching the person's sexual or intimate parts with the complainant's sexual or intimate parts.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1976-53 (H.B. 580), PL. 120, 1, approved May 18, 1976, eff. in 30 days; Act 1990-4 (H.B. 1120), PL. 6, approved Feb. 2, 1990, eff. in 60 days; Act 1995 Special Session-10 (S.B. 2), PL. 985, 9, approved Mar. 31, 1995, See section of this act for effective date information; Act 2005-76 (H.B.1400), PL. 412, 1, approved Nov. 23, 2005, eff. In 60 days.

3127. Indecent Exposure.

A. OFFENSE DEFINED. A person commits indecent exposure if that person exposes his or her genitals in any public place or in any place where there are present other persons under circumstances in which he or she knows or should know that this conduct is likely to offend, affront or alarm.

B. GRADING. If the person knows or should have known that any of the

persons present are less than 16 years of age, indecent exposure under subsection (a) is a misdemeanor of the first degree. Otherwise, indecent exposure under subsection (a) is a misdemeanor of the second degree.

Act 1972-334 (S.B. 455), PL. 1482, 1, approved Dec. 6, 1972, eff. in 6 months; Act 1995 Special Session-10 (S.B. 2), PL. 985, 9, approved Mar. 31, 1995, See section of this act for effective date information.

3129. Sexual Intercourse with Animal.

A person who engages in any form of sexual intercourse with an animal commits a misdemeanor of the second degree.

Act 1999-8 (H.B. 124), PL. 67, 1, approved June 18, 1999, eff. in 60 days.

3130. Conduct Relating to Sex Offenders. [Effective until December 20, 2012]

A. OFFENSE DEFINED. A person commits a felony of the third degree if the person has reason to believe that a sex offender is not complying with or has not complied with the requirements of the sex offenders probation or parole, imposed by statute or court order, or with the registration requirements of 42 Pa.C.S. 9795.2 (relating to registration procedures and applicability), and the person, with the intent to assist the sex offender in eluding a law enforcement agent or agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of the sex offenders probation or parole or the requirements of 42 Pa.C.S. 9795.2:

1. D. Withholds information from or does not notify the law enforcement agent or agency about the sex offenders' noncompliance with the requirements of parole, the requirements of 42 Pa.C.S. 9795.2 or, if known, the sex offenders whereabouts;
2. E. harbors or attempts to harbor or assist another person in harboring or attempting to harbor the sex offender;
3. F. conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or

4. G. provides information to the law enforcement agent or agency regarding the sex offender which the person knows to be false.

B. DEFINITION. As used in this section, the term sex offender means a person who is required to register with the Pennsylvania State Police pursuant to the provisions of 42 Pa.C.S. 9795.1 (relating to registration).

Act 2006-178 (S.B. 944), PL. 1567, 1, approved Nov. 29, 2006, eff. Jan. 1, 2007.

3130. Conduct Relating to Sex Offenders [Effective December 20, 2012]

A. OFFENSE DEFINED. A person commits a felony of the third degree if the person has reason to believe that a sex offender is not complying with or has not complied with the requirements of the sex offenders probation or parole, imposed by statute or court order, or with the registration requirements of 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), and the person, with the intent to assist the sex offender in eluding a law enforcement agent or agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of the sex offenders probation or parole or the requirements of 42 Pa.C.S. Ch. 97 Subch. H:

1. withholds information from or does not notify the law enforcement agent or agency about the sex offenders' noncompliance with the requirements of parole, the requirements of 42 Pa.C.S. Ch. 97 Subch. H or, if known, the sex offenders whereabouts;
2. harbors or attempts to harbor or assist another person in harboring or attempting to harbor the sex offender;
3. conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or
4. provides information to the law enforcement agent or agency regarding the sex offender which the person knows to be false.

B. DEFINITION. As used in this section,

the term sex offender means a person who is required to register with the Pennsylvania State Police pursuant to the provisions of 42 Pa.C.S. Ch. 97 Subch. H. Act 2006-178 (S.B. 944), PL. 1567, 1, approved Nov. 29, 2006, eff. Jan. 1, 2007; Act 2011-111 (S.B. 1183), 1, approved Dec. 20, 2011, eff. in 1 year.

SUBCHAPTER C. LOSS OF PROPERTY RIGHTS

3141. General rule.
[Effective until
December 20, 2012]

3142. Process and seizure.
3143. Custody of property.
3144. Disposal of property.

3141. General rule. [Effective until December 20, 2012]

A person:

1. convicted under section 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault) or 3126 (relating to indecent assault); or (2) required to register with the Pennsylvania State Police under 42 Pa.C.S. 9795.2 (relating to registration procedures and applicability); may be required to forfeit property rights in any property or assets used to implement or facilitate commission of the crime or crimes of which the person has been convicted. Such property may include, but is not limited to, a computer or computers, telephone equipment, firearms, licit or illicit prescription drugs or controlled substances, a motor vehicle or such other property or assets as determined by the court of common pleas to have facilitated the persons criminal misconduct.

Act 2006-178 (S.B. 944), PL. 1567, 2, approved Nov. 29, 2006, eft. Jan. 1, 2007.

3142. Process and Seizure.

A. SEIZURE. Property subject to forfeiture under this section may be seized by law enforcement authority upon process issued by the court of common pleas having jurisdiction over the person or property

B. SEIZURE WITHOUT PROCESS. Seizure without process may be made if the seizure is incident to an arrest or a search under a search warrant and there is probable cause to believe that the property was or is material to the charges for which the arrest or search warrant was issued. In seizures without process, proceedings for the issuance thereof shall be instituted immediately.

C. RETURN OF PROPERTY. Property belonging to someone other than the convicted sex offender or registrant shall be returned if the offense was committed without the knowledge or consent of the owner.

Act 2006-178 (S.B. 944), PL. 1567, 2, approved Nov. 29, 2006, eft. Jan. 1, 2007.

3143. Custody of Property.

Property taken or detained under this subchapter is deemed to be the property of the law enforcement authority having custody thereof and is subject only to the court of common pleas having jurisdiction over the criminal or forfeiture proceedings, the district attorney in the matter or the Attorney General.

Act 2006-178 (S.B. 944), PL. 1567, 2, approved Nov. 29, 2006, eft. Jan. 1, 2007.

3144. Disposal of Property.

Property taken or detained pursuant to the provisions of this subchapter shall be sold in the manner of property forfeited under 42 Pa.C.S. Ch. 68 (relating to forfeitures). The net proceeds, as determined by the law enforcement authority having custody thereof, shall be utilized for investigation or prosecution of sexual offenses or donated to nonprofit charitable institutions which provide counseling and other assistance to victims of sexual offenses.

Act 2006-178 (S.B. 944), PL. 1567, 2, approved Nov. 29, 2006, eft. Jan. 1, 2007.

Domestic violence is defined in Pennsylvania criminal statutes as:

2711. Probable Cause Arrests in Domestic Violence Cases.

A. GENERAL RULE. A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter-

ter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to terroristic threats) or 2709.1 (relating to stalking) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term family or household member has the meaning given that term in 23 Pa.C.S. 6102 (relating to definitions).

B. SEIZURE OF WEAPONS. The arresting police officer shall seize all weapons used by the defendant in the commission of the alleged offense.

C. BAIL.

1. A defendant arrested pursuant to this section shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. In no case shall the arresting officer release the defendant from custody rather than taking the defendant before the issuing authority.
2. In determining whether to admit the defendant to bail, the issuing authority shall consider whether the defendant poses a threat of danger to the victim. If the issuing authority makes such a determination, it shall require as a condition of bail that the defendant shall refrain from entering the residence or household of the victim and the victims place of employment and shall refrain from committing any further criminal conduct against the victim and shall so notify the defendant thereof at the time the defendant is admitted to bail. Such condition shall expire at the time of the preliminary hearing or upon the entry or the denial of the protection of abuse order by the court, whichever occurs first. A violation of this condition may be punishable by the revocation of any form of pretrial release or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him to custody or a modification of the terms of the bail. The defendant shall be provided a hearing on this matter.

D. NOTICE OF RIGHTS.

1. Upon responding to a domestic violence case, the police officer shall, orally or in writing, notify the victim of the availability of a shelter, including its telephone number, or other services in the community. Said notice shall include the following statement: If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) which could include the following:
 2. An order restraining the abuser from further acts of abuse.
 3. An order directing the abuser to leave your household.
 4. An order preventing the abuser from entering your residence, school, business, or place of employment.
 5. An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
 6. An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

Act 1986-10 (H.B. 350), PL. 27, 1, approved Feb. 15, 1986, eff. in 60 days; Act 1990-206 (H.B.1023), PL. 1240, 3, approved Dec. 19, 1990, eff. in 90 days; Act 2000-101 (S.B. 1444), PL. 728, 1, approved Dec. 20, 2000, eff. in 60 days; Act 2002-218 (S.B. 1515), PL. 1759, 3, approved Dec. 9, 2002, eff. in 60 days.

Title 23 –

Domestic Relations – Definitions

A. GENERAL RULE. The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Abuse.” The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

1. Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault,

aggravated indecent assault, indecent assault or incest with or without a deadly weapon.

2. Placing another in reasonable fear of imminent serious bodily injury.
3. The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).
4. Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).
5. Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).

“Adult.” An individual who is 18 years of age or older.

“Certified copy.” A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court. A raised seal on the copy of the order of the issuing court shall not be required.

“Comparable court.” A foreign court that: (1) has subject matter jurisdiction and is authorized to issue ex parte, emergency, temporary or final protection orders in that jurisdiction; and (2) possessed jurisdiction over the parties when the protection order was issued in that jurisdiction.

“Confidential communications.” All information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports, statistical data, memoranda or working papers, records or the like, given or made in the course of the relationship.

The term also includes communications made by or to a linguistic interpreter assisting the victim, counselor, or advocate in the course of the relationship. **“Domestic violence**

counselor/advocate.” An individual who is engaged in a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence, who has undergone 40 hours of training.

“Domestic violence program.” A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims which include, but are not limited to, crisis hotline; safe homes or shelters; community education; counseling systems intervention and interface; transportation, information and referral; and victim assistance.

“Family or household members.” Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

“Firearm.” Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon as defined by 18 Pa.C.S. § 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

“Foreign protection order.” A protection order as defined by 18 U.S.C. § 2266 (relating to definitions) issued by a comparable court of another state, the District of Columbia, Indian tribe or territory, possession, or commonwealth of the United States.

“Hearing officer.” A magisterial district judge, judge of the Philadelphia Municipal Court, arraignment court magistrate appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue), master appointed under 42 Pa.C.S. § 1126 (relating to masters) and master for emergency relief.

“Master for emergency relief.” A member of the bar of the Commonwealth appointed under section 6110(e) (relating to emergency relief by minor judiciary).

“Minor.” An individual who is not an adult. **“Other weapon.”** Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term does not include a firearm.

“Safekeeping permit.” A permit issued by a sheriff allowing a person to take possession of any firearm, other weapon, or ammunition that a judge ordered a defendant to relinquish in a protection from abuse proceeding.

“Secure visitation facility.” A court-approved visitation program offered in a facility with trained professional staff operated in a manner that safeguards children and parents from abuse and abduction.

“Sheriff.”

1. Except as provided in paragraph
2. the sheriff of the county.
3. In a city of the first class, the chief or head of the police department.

“Victim.” A person who is physically or sexually abused by a family or household member. For purposes of section 6116 (relating to confidentiality), a victim is a person against whom abuse is committed who consults a domestic violence counselor or advocate for the purpose of securing advice, counseling, or assistance. The term shall also include persons who have a significant relationship with the victim and who seek advice, counseling or assistance from a domestic violence counselor or advocate regarding abuse of the victim.

“Weapon.” Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term includes a firearm which is not loaded or lacks a magazine, clip or other components to render it immediately operable and components which can readily be assembled into a weapon as defined by 18 Pa.C.S. § 907 (relating to possessing instruments of crime).

(b) Other terms. Terms not otherwise defined in this chapter shall have the meaning given to them in 18 Pa.C.S. (relating to crimes and offenses). (*Oct. 6, 1994, PL.574, No.85, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., PL.985, No.10, eff. 60 days; June 22, 2001, PL.576, No.39, eff. 60 days; Nov. 30, 2004, PL.1618, No.207, eff. 60 days; Nov. 10, 2005, PL.335, No.66, eff. 180 days; Oct. 9, 2008, PL.1352, No.98, eff. 60 days*)

Dating violence is defined in Pennsylvania criminal statutes as:

No separate state statute is provided in Pennsylvania criminal law for Dating Violence. Covered under Title 23 - Domestic Relations
Stalking is defined in Pennsylvania criminal statutes as:

PA CRIMES CODE

A. OFFENSE DEFINED. A person commits the crime of stalking when the person either:

1. Engages in a course of conduct or repeatedly commits acts toward

another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or

2. Engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

B. VENUE

1. An offense committed under this section may be deemed to have been committed at either the place at which the communication or communications were made or at the place where the communication or communications were received.
2. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

C. GRADING

1. Except as otherwise provided for in paragraph (2), a first offense under this section shall constitute a misdemeanor of the first degree. (2) A second or subsequent offense under

this section or a first offense under subsection (a) if the person has been previously convicted of a crime of violence involving the same victim, family or household member, including, but not limited to, a violation of section 2701 (relating to simple assault), 2702 (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2901 (relating to kidnapping), 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), an order issued under section 4954 (relating to protective orders) or an order issued under 23 Pa.C.S. 6108 (relating to relief) shall constitute a felony of the third degree.

D. FALSE REPORTS.

1. A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this section commits an offense under section 4906 (relating to false reports to law enforcement authorities).

E. APPLICATION OF SECTION. This section shall not apply to conduct by a party to a labor dispute as defined in the act of June 2, 1937 (PL.1198, No. 308), known as the Labor Anti-Injunction Act, or to any constitutionally protected activity.

F. DEFINITIONS. As used in this section, the following words and phrases shall have the meanings given to them in this subsection: Communicates. To convey a message without intent of

legitimate communication or address by oral, nonverbal, written, or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication, or similar transmission. Course of conduct. A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening, or obscene words, language, drawings, caricatures, or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

G. EMOTIONAL DISTRESS. A temporary or permanent state of mental anguish. Family or household member. Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

Act 2002-218 (S.B. 1515), PL. 1759, 2, approved Dec. 9, 2002, eft. in 60 days.

► **Additional information can be obtained on the West Chester University main campus 2020 Annual Security and Fire Safety Report. The information can be obtained at the following website: <https://www.wcu-pa.edu/dps/documents/clery20.pdf>**



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