

UNIVERSITY OF PENNSYLVANIA

**HANDBOOK ON
AFFIRMATIVE ACTION
AND
EQUAL OPPORTUNITY**



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University of Pennsylvania

Office of Affirmative Action and Equal Opportunity Programs

Jurisdiction

The President of the University of Pennsylvania has charged the Office of Affirmative Action and Equal Opportunity Programs with the central responsibility of ensuring that the University meets its obligations as an affirmative action/equal opportunity employer and educational institution. The Office of Affirmative Action and Equal Opportunity Programs, therefore, is responsible for implementing, articulating and advocating for the University of Pennsylvania's policies, procedures, and priorities in the areas of equal opportunity and affirmative action.

The University's equal opportunity and nondiscrimination policies arise out of various federal laws and regulations prohibiting harassment and other forms of discrimination on the basis of race, color, national or ethnic origin, religion, creed, sex, age (persons over 40), disability (or association with persons with disabilities), and applicable veteran status. The University's affirmative action obligations arise out of federal laws and regulations requiring that affirmative efforts be taken, in a nondiscriminatory manner and in good faith, to recruit and retain in its workforce qualified women, minorities, persons with disabilities, and covered veterans (special disabled and Vietnam era veterans).

Furthermore, the Pennsylvania Human Relations Act makes it unlawful, in employment, to refuse to hire, to discharge, or to otherwise discriminate in any term or condition of employment because of race, color, religion, ancestry, age (40 and above), sex, national origin, non job related handicap or disability, possession of a diploma based on passing a general education development test, willingness or refusal to participate in abortion or sterilization, or refusal to contract with certain independent contractors for the same reasons. The Act also makes it unlawful to discriminate against any person because of the handicap or disability of an individual with whom the person is known to have a relationship or association. By City of Philadelphia ordinance, discrimination on the basis of sexual orientation or gender identity is prohibited as well.

Office Responsibilities and Activities

The Office of Affirmative Action and Equal Opportunity Programs accomplishes its charge through a number of functional and cross-functional activities with other Penn partners that include, but are not limited to:

Umbrella Responsibilities of the Office

- Advocating for Penn's policies, procedures and priorities in the areas of equal opportunity and affirmative action;
- Overseeing the administration and implementation of the University's affirmative action programs and nondiscrimination policies and programs;
- Monitoring the effectiveness of the University's affirmative action programs and nondiscrimination policies and procedures to ensure compliance with relevant federal, state and local laws;
- Coordinating the preparation of the University's written Affirmative Action Plans in compliance with relevant Federal regulations;

Campus Partnership Activities

- Partnering with the Division of Human Resources on staff affirmative action and nondiscrimination matters;
- Partnering with the Office of the Associate Provost and others on faculty affirmative action and nondiscrimination matters;
- Partnering with other University offices and administrators to ensure the effective implementation of the University's affirmative action and nondiscrimination policies;

Services for People with Disabilities

- Consulting with faculty and staff with disabilities on requests for reasonable accommodation, as well as consulting with managers and supervisors who need information on how to reasonably accommodate their employees with disabilities;
- Authorizing use of the Penn Access Transit (PAT) for faculty and staff;
- Overseeing building and program accessibility (shared responsibility with the Office of Student Disabilities Services);
- Monitoring construction and renovation projects to ensure programs and activities are accessible to the people with disabilities;
- Participating in the resolution of complaints regarding campus building and program accessibility;

Education and Information

- Providing information on Penn's affirmative action and nondiscrimination policies;
- Providing educational programs on affirmative action, equal opportunity and nondiscrimination issues;
- Offering suggestions on outreach and recruitment strategies;
- Providing technical assistance to University personnel on affirmative action and nondiscrimination issues;

Complaint Resolution

- Investigating complaints of harassment and other forms of prohibited discrimination and recommending corrective or disciplinary action when appropriate; and
- Making referrals to other University departments for issues/concerns outside the scope of the Office's jurisdiction.

For information or assistance, please feel free to contact us.

Jeanne Arnold, M.S.W., Executive Director
Patrice D. Miller, SPHR, Associate Director
Monica Jones, Staff Assistant
Candice Milbourne, Administrative Coordinator

University of Pennsylvania
Office of Affirmative Action and Equal Opportunity Programs
Sansom Place East, Suite 228
3600 Chestnut Street
Philadelphia, PA 19104
(215) 898-6993 (voice)
(215) 898-7803 (TDD)

**The Policy of Equal Opportunity, Affirmative Action and
Nondiscrimination
At the University of Pennsylvania**

The University of Pennsylvania's special character is reflected in the diversity of the Penn community. Men and women of different races, religions, nationalities and backgrounds are necessary to achieve the University's ultimate purpose: the improvement of the human condition through the pursuit of learning and the generation of knowledge. Diversity is prized at Penn because it helps to create the educational environment that best prepares students to contribute to an increasingly diverse and rapidly shrinking world. We must continue, therefore, to seek talented faculty, students and staff who will help constitute a community at Penn that is diverse in race, gender, ethnicity, interests and perspectives.

The foundation for achieving, valuing, and managing diversity at Penn is equal opportunity. We have a clear commitment to equal opportunity, non-discrimination, and affirmative action. This policy re-affirms our commitment in this regard. This policy of equal opportunity, affirmative action, and non-discrimination is fundamental to the effective functioning of the University as an institution of teaching, scholarship, and public service.

Penn adheres to a policy that prohibits discrimination against individuals because of: race; color; sex (except where sex is a bona fide occupational qualification); sexual orientation; gender identity; religion; creed; national or ethnic origin; citizenship status; age; disability (or association with an individual with a disability); and status as a special disabled, Vietnam era or other eligible veteran.

Our task is to eliminate any patterns of prohibited unequal treatment from a community that values diversity. We must monitor our policies, procedures, and practices for equal opportunity and access to the services, programs, and opportunities our community has to offer individuals.

Penn is committed to ensuring that academic programs (except where sex is a bona fide occupational qualification), including social and recreational programs and services are administered without regard to an individual's protected-class status.

Penn is also committed to ensuring that its personnel and other employment decisions are made without regard to an individual's protected-class status. Personnel and other employment decisions include, but may not be limited to; outreach and recruitment, application, selection, promotion and other transfers, compensation, benefits administration, layoffs and other personnel transitions, University-sponsored training and educational programs, and tuition assistance.

Penn is dedicated to an organizational strategy that supports the full realization of equal employment opportunity for all through affirmative action predicated on the following tenets:

- serious and imaginative outreach, recruitment, and advertising methods;
- periodic reviews of the personnel and other employment decisions made by hiring officers;
- thorough analysis of Penn's Faculty and Staff workforce composition to determine areas of underutilization for which concentrated or special effort is due;
- provision of professional and management development opportunities for faculty and staff that builds skills and knowledge around equal opportunity, as well as valuing and effectively managing Penn's diverse work environments;
- provision of skill development and enhancement opportunities for staff.
- provision of technical assistance on the implementation of this policy, as needed, to schools, departments, and centers.

As a federal contractor, Penn has a written Affirmative Action Plan to address the utilization of women and minorities and to address the inclusion of persons with disabilities, special disabled and Vietnam era veterans in Penn's workforce.

This policy also recognizes an individual's right to raise and pursue concerns of alleged discrimination to a University resource office or to an appropriate individual within a school, department, or center without adverse action or retaliation for doing so. The Affirmative Action Plan describes the University resources available to faculty, staff, students, and applicants for employment or admission to Penn who believe they have been discriminated against on the basis of their protected-class status.

Penn's non-discrimination and affirmative action policies and programs are developed, administered, and monitored centrally through the Office of Affirmative Action and Equal Opportunity Programs in collaboration with the Division of Human Resources and the Office of the Associate Provost. The Office of Affirmative Action and Equal Opportunity Programs is located organizationally within the Office of the President. Questions or concerns regarding these policies and programs, and requests for educational programs on affirmative action, equal opportunity, and nondiscrimination, should be directed to the Executive Director, Office of Affirmative Action and Equal Opportunity Programs, Sansom Commons East, Suite 228, 3600 Chestnut Street, Philadelphia, PA 19104-6106, (215) 898-6993 (Voice) or (215) 898-7803 (TDD).

This policy covers faculty and staff, matriculated students, applicants for faculty and staff employment, and applicants to Penn's academic programs and other activities.

This policy is available in alternate format upon request.

University of Pennsylvania Nondiscrimination Statement

The University of Pennsylvania values diversity and seeks talented students, faculty and staff from diverse backgrounds. The University of Pennsylvania does not discriminate on the basis of race, sex, sexual orientation, gender identity, religion, color, national or ethnic origin, age, disability, or status as a Vietnam Era Veteran or disabled veteran in the administration of educational policies, programs or activities; admissions policies; scholarship and loan awards; athletic, or other University administered programs or employment. Questions or complaints regarding this policy should be directed to: Executive Director, Office of Affirmative Action and Equal Opportunity Programs, Sansom Place East, 3600 Chestnut Street, Suite 228, Philadelphia, PA 19104-6106 or by phone at (215) 898-6993 (Voice) or (215) 898-7803 (TDD).

POLICY NO: 703
SUPERCEDES POLICY NO: 703 (12/06/1988)
EFFECTIVE DATE: 11/07/1995

SEXUAL HARASSMENT POLICY

Sexual Harassment Q & A and Suggestions for Handling Sexual Harassment Complaints
<http://www.upenn.edu/almanac/v47/n25/sexharass.html>

I. Conduct

Our community depends on trust and civility. A willingness to recognize the dignity and worth of each person at the University is essential to our mission.

It is the responsibility of each person on campus to respect the personal dignity of others. We expect members of our University community to demonstrate a basic generosity of spirit that precludes expressions of bigotry.

Penn properly celebrates the diversity of its community. We come to Penn from many different backgrounds and include different races, religions, sexual orientations, and ethnic ancestries. Learning to understand the differences among us, as well as the similarities, is an important dimension of education, one that continues for a lifetime. Tolerance alone, however, is not enough. Respect and understanding also are needed. We should delight in our differences, and should seek to appreciate the richness and personal growth, which our diversity provides to us as members of this community.

The University is committed to freedom of thought, discourse and speech, and the attainment of the highest quality of academic and educational pursuits and daily work. Policies and regulations implementing this commitment include the Statement on Academic Freedom and Responsibility, the Guidelines on Open Expression, and the Code of Academic Integrity.

The University also has established policies on behaviors that interfere with these freedoms. Foremost among these policies is the University's Statement on Non-Discrimination, which prohibits discrimination on the basis of race, color, sex, sexual preference, religion, national or ethnic origin, handicap or disability.

The University also has adopted the following policy concerning sexual harassment. The terms "harassment" and "sexual harassment" as used throughout, are defined as a matter of University policy, and are not necessarily identical or limited to the uses of that term in external sources, including governmental guidelines or regulations.

II. Purposes and Definitions

A. Purpose

For many years the University has stressed that sexual harassment is not tolerated at Penn. As an employer and as an educational institution, the University is committed to eradicating sexual harassment.

Sexual harassment in any context is reprehensible and is a matter of particular concern to an academic community in which students, faculty, and staff must rely on strong bonds of intellectual trust and dependence.

B. Definition

For the purposes of University policy, the term "sexual harassment" refers to any unwanted sexual attention that:

1. Involves a stated or implicit threat to the victim's academic or employment status;
2. Has the purpose or effect of interfering with an individual's academic or work performance; and/or,
3. Creates an intimidating or offensive academic, living, or work environment.

The University regards such behavior, whether verbal or physical, as a violation of the standards of conduct required of all persons associated with the institution. Accordingly, those inflicting such behavior on others are subject to the full range of internal institutional disciplinary actions, including separation from the University. Likewise, acts of retaliation will be subject to the same range of disciplinary actions.

As noted in the *Handbook for Faculty and Academic Administrators, Policies and Procedures*, the *Academic Bulletin*, and other University publications, persons engaged in such harassment within the University setting are subject to the full range of internal institutional disciplinary actions, including separation from the institution.

Not every act that might be offensive to an individual or a group necessarily will be considered as harassment and/or a violation of the University's standard of conduct. In determining whether an act constitutes harassment, the totality of the circumstances that pertain to any given incident in its context must be carefully reviewed and due consideration must be given to the protection of individual rights, freedom of speech, academic freedom and advocacy.

III. Resources

School and administrative units should make known to all of their members the available resources and the informal and formal procedures for resolving complaints of sexual harassment within the unit or at the University level. These resources include the following:

A. Information, Counseling, and Support

The following University resources are available to members of the University community who seek information and counseling about University policies on sexual harassment, standards of behavior, informal and formal mechanisms for resolving complaints and resources for complainants and respondents.

Deans and directors may also make referrals to these resource offices:

- Office of Affirmative Action and Equal Opportunity Programs
- African American Resource Center
- Penn-Friends Employee Assistance Program
- Lesbian Gay Bisexual Center
- Office of Staff and Labor Relations
- Office of the Ombudsman
- Special Services
- Penn Women's Center
- Student Health Services
- Counseling and Psychological Services
- Office of the Vice Provost for University Life

B. Informal Mechanisms for Mediation and Resolution

The Ombudsman, the Office of Affirmative Action, the Penn Women's Center, all other offices as resource offices in this policy, the Office of Student Conduct, the Office of Residential Living, department chairs, deans and administrative directors, the provost, and the senior vice president are available to assist in the informal resolution of complaints.

C. Formal Mechanisms for Resolution and Adjudication

When informal resolution is not chosen or is unsatisfactory, complainants are urged to use appropriate formal mechanisms described below:

1. Complaints of sexual harassment against a faculty member, instructor, or teaching assistant may be brought by a student, staff, or faculty member to the department chair or dean of the faculty member. The department chair or dean who receives a complaint is then charged pursuing the matter. While the process depends on the particulars of the complaint, normally the department chair or dean interviews the faculty member. If the matter is not resolved informally, the department chair or dean conducts either an investigation or requests that the Ombudsman, the Office of Affirmative Action, and the Office of Staff and Labor Relations does so. If the results of the investigation persuade the dean or department chair that sanctions are warranted, he/she consults with faculty members--without disclosing the identity of the individuals involved--to aid in determining an appropriate sanction, including whether there is substantial reason to believe that just cause exists for suspension or termination. If it is determined that action should be taken to suspend or terminate, the dean should refer the matter to the Committee on Academic Freedom and Responsibility of the school in accordance with the procedures set out in section II. E.10 of the *Handbook for Faculty and Academic Administrators (1989)*.

2. Complaints of sexual harassment against a staff member may be brought by a student, staff member or faculty member to the supervisor of the person complained against. The supervisor who receives the complaint is then charged with pursuing the matter. While the process will depend on the particulars of the complaint, normally the supervisor interviews the staff member. If the matter is not resolved informally, the supervisor conducts either an investigation or requests that the Ombudsman, the Office of Affirmative Action, and the Office of Staff and Labor Relations, does so. If the result of the investigation persuades the supervisor that sanctions are warranted, he or she consults with his or her colleagues or supervisor--without disclosing the identity of the individual(s) involved to aid in determining an appropriate sanction. A staff member who believes that his or her rights have been violated directly by another staff member or administrator may file a grievance by contacting the Office of Staff and Labor Relations within the Office of Human Resources under the University of Pennsylvania Staff Grievance Procedure. Complaints by students of sexual harassment may be made to the Office of the Vice Provost for University Life. Grievances associated with sexual harassment in student employment may also fall within the purview of the Vice Provost for University Life.

3. A complaint of sexual harassment may be brought against a student by filing a complaint the Charter of the University Student Judicial System, or, if the respondent is a graduate or professional student enrolled in a school which has established a hearing board other decision-making body, with that body.

4. A tenured or untenured faculty member, whether full or part time, who believes she or he has been subjected to sexual harassment by a faculty member or by an academic administrator may file a grievance under the Faculty Grievance Procedure, *Handbook for Faculty and Academic Administrators (1989)*, part II E. 15, provided the complaint constitutes a grievance as defined in Section I of the Procedure. This procedure is administered by the Faculty Grievance Commission. The panel makes its recommendations to the provost. In cases that involve reappointment, promotion or tenure, and in which the provost has declined or failed to implement the recommendations of the panel to the satisfaction of the grievant, the grievant may obtain a hearing before the Senate Committee on Academic Freedom and Responsibility on the actions of the provost.

5. If the matter has not previously been referred to a different panel or committee, a student or staff member who believes that she or he has been subjected to sexual harassment by a faculty member, and whose complaint has not been resolved through the mechanisms listed above, may bring the matter to the Faculty Senate Committee on Conduct. This committee is a standing committee of the Faculty Senate. At meetings with the Committee, the student or staff member may be accompanied by an advisor who is a member of the University community (student, faculty, or staff). The findings and recommendations of the Committee shall be advisory and shall be submitted to the provost for her or his decision and implementation.

D. Central Reporting of Sexual Harassment

1. A decentralized system of resources encourages the reporting and resolution of complaints of sexual harassment. To that end, and with the consent of the complainant, those offices described in Sections III.A and III.B of this policy that have handled through mediation or counseling a complaint that was not submitted to a formal hearing board should forward to the Ombudsman a report of the matter as soon as it is received. Such reports should not include the names of the persons involved. They should include, however, a description of the complaint, the schools or administrative units with which the complainant and respondent are affiliated, and the disposition of the complaint. In the case of a large department in a large school, the department also should be identified. Reports from decentralized areas will enable the Ombudsman to identify patterns in a particular location and the frequency of such incidents in a given area. Such information can then be transmitted to the appropriate dean or administrative supervisor. The reports will also enable the Ombudsman to act on behalf of the community and to conduct whatever investigation he or she deems necessary to determine whether University regulations are being violated.

2. Summary reports of formal charges of sexual harassment that have been adjudicated and records of their disposition should be forwarded to the Ombudsman's Office as a matter of information by the resource offices named in this policy.

3. Based on the information forwarded to her or him during the previous year, the Ombudsman shall submit to the president on an annual basis a summary report of the number and type of formal and informal charges of sexual harassment and their resolution by September 15 of the academic year. This report will be shared with the University community early in the semester.

E. Education and Prevention

The prevention of sexual harassment and the establishment of effective procedures with due concern for all parties require a thoughtful educational program.

1. University resource offices will provide to the community information on (a) available mediation and resolution resources; and (b) sources of support and information for victims and respondents.

2. Deans and heads of major administrative units are encouraged to discuss this policy and issues of sexual harassment at meetings of faculty and staff.

3. Training programs for residential advisors, senior administrative fellows, those who meet students in crisis situations and others serving in an advisory capacity to students will include training about referrals, resources, and methods for handling instances of sexual harassment.

4. An overall educational program for students that addresses issues of peer sexual harassment and also provides information, definition, support, and the identification of sexual harassment resources has been developed by the Office of the Vice Provost for University Life, the Office of Affirmative Action, and the Penn Women's Center in conjunction with the Office of Residential Living, the Council of College House Masters, and the Council of Senior Faculty Residents involved with the Freshman Year Program. Such an educational program is directed toward new undergraduate and graduate and professional students.

5. The University will publish annually the operative portions of this policy statement, including information about the resources available to advise, counsel, and assist in the mediation of sexual harassment allegations. Information will explain how and where to contact University-wide and school-specific resources and will be posted in conspicuous locations. All members of the University should feel a responsibility to try to prevent sexual harassment whenever they observe it. Community members should report sexual harassment to appropriate University resources promptly for appropriate action.

F. Exit Interviews

Deans and administrative directors will periodically survey departing students, faculty and staff to measure the existence and frequency of reports of sexual harassment. Based on the data yielded by these surveys and the annual reports of the Ombudsman, the University administration will determine, in consultation with the University Council, whether there is a need for further efforts to be taken on the issue of sexual harassment.

G. Implementation

Deans and administrative directors will be responsible for the implementation of this policy. The provost and senior vice president will oversee the performance of deans and directors in the implementation of this policy.

POLICY NO: 712
SUPERCEDES POLICY NO:
EFFECTIVE DATE: 2/1/1990

ADMINISTRATIVE GUIDELINES RELATED TO IMMUNODEFICIENCY VIRUS

The University of Pennsylvania recognizes the impact of the Human Immunodeficiency Virus (HIV, or AIDS virus) on staff employees, both as regards the safety of the work environment and in terms of potential infection. The University recognizes its responsibility to establish guidelines, based upon prevailing medical and legal information, for employment activities within the Institution.

712.1 GUIDELINES

1a Employees with HIV infection AIDS, or a positive HIV antibody test, whether symptomatic or not, will be allowed unrestricted employment activities as long as they are mentally and physically able to perform their job duties in a manner that does not pose a health or safety risk to themselves or to others. When action is necessary the Supervisor will attempt reasonable accommodation of such employees and will consult with the Staff Relations area of Human Resources and, when appropriate, the University's Affirmative Action Office. Every attempt will be made to render a well-informed judgment grounded in a careful and open-minded weighing of all available alternatives.

1b. The University does not require any mandatory testing of an employee for the HIV antibody. Employees with HIV infection will not be restricted from access to instructional, recreational, dining, or other common areas, facilities or equipment.

1c The presence of HIV infection will not alter the employment decision for anyone applying to work at the University except for those jobs for which available medical evidence indicates health risk to the public.

1d If an employee develops HIV infection, the University will permit the employee to continue to work so long as such employee is able to perform his or her job, except for those jobs for which available medical evidence indicates a health risk to the public. Each case will be considered on an individual basis. The University will extend the same sick leave and benefits as may be applicable under the relevant University policies.

1e. The University encourages regular medical follow-up for HIV infected employees. Any employee may obtain medical evaluation, counseling and testing at the Immunodeficiency Program offered at the Hospital of the University of Pennsylvania by the Clinical Practices of the University of Pennsylvania (by appointment).

If University Administrators, Supervisors and other employees shall conduct themselves with compassion and understanding in making work-related decisions regarding an employee with HIV infection.

1g. The number of persons in the University who are aware of the existence and/or identity of HIV-infected employees should be kept to a minimum to protect the confidentiality and the right to privacy of the infected person and to avoid unnecessary fear and anxiety within the work environment.

1h The University recognizes that there are medical reasons to advise employees when a co-worker has HIV infection. No employee is authorized, therefore, to reveal that a co-worker has HIV infection. Issues of a safe work environment will be dealt with by cooperative educational training programs, the dates of which will be published in the Training Calendar.

1i. No employee who actually has or is suspected of having HIV infection, shall be subjected to emotional, verbal and/or physical abuse by another employee. Any such action is condemned as a matter of policy, will not be tolerated, and is grounds for discipline.

1j The presence of an individual who has HIV infection in a department or work area, standing alone, shall not be the basis for the reassignment of any other employee.

712.2 REPORTING REQUIREMENTS

The University will observe any public health reporting requirements for HIV infection.

POLICY NO: 715
SUPERCEDES POLICY NO:
EFFECTIVE DATE: 10/29/1991

ACQUAINTANCE RAPE AND SEXUAL VIOLENCE POLICY

715.1 INTRODUCTION

The University of Pennsylvania seeks a safe and healthy environment for all community members and visitors. Thus, Penn has developed the following policy on acquaintance rape/sexual violence to set forth definitions, to reaffirm Penn's commitment to providing resources and processes for prevention, education, support, reporting, adjudication, protection from retaliation, and to identify the range of sanctions. The University will also provide multiple access points for collection of information about incidents and a clear process for dissemination of acquaintance rape/sexual violence statistics to the community.

The University needs a specific policy on rape and sexual violence because the prevalence of rape and sexual violence on college campuses is alarming.

Statistics compel universities throughout the country to acknowledge that significant numbers of their members have been raped or will be raped. Given Penn's history of providing national leadership with respect to rape and sexual assault education and counseling, it is timely for Penn to continue this role by adopting a specific policy on acquaintance rape and sexual violence. The personal trauma experienced by the victims/survivors and the nature and consequences of this crime undermine the trust essential to the process of education and the mission of the University. This crime also conflicts with our very basic standards of behavior. Indeed, this form of sexual violence is particularly damaging to our community because victims/survivors often are acquainted with and must continue to interact with their assailants. Moreover, for many men and women it is difficult to define this behavior as rape.

715.2 DEFINITION

Acquaintance rape is a form of sexual violence. For the purpose of this policy, acquaintance rape/sexual violence is defined as any act in which a member of the university community forces another with whom he or she is acquainted to engage in sexual activity against her or his will or without her or his consent. Assent shall not constitute consent if it is given by a person who because of youth, mental disability or intoxication is unable to make a reasonable judgment concerning the nature of or harmfulness of the activity. This policy applies to groups as well as individuals.

715.3 INTERVENTION

The University of Pennsylvania will provide resources to support victims/survivors, will utilize University fact-finding and disciplinary procedures with appropriate jurisdiction, will publish annual statistics on incidents of acquaintance rape and other forms of sexual violence, and will provide comprehensive education for the prevention of sexual violence including acquaintance rape at the University of Pennsylvania. Incidents reported to the appropriate departments will be addressed promptly and will be treated confidentially. In addition, the University will, as appropriate, inform members of the Penn community when an incident has been so reported. The procedures that implement this policy will take into account the need to investigate charges that may be filed and the right to confidentiality of all involved parties. When appropriate, after an incident occurs, outreach and support to faculty, students and staff affected by the particular incident will be part of Penn's response. This support may include release time, leaves, or other accommodations.

715.4 SANCTIONS

University sanctions will be imposed in accordance with appropriate University processes upon persons found to have violated this policy. These sanctions can include but are not limited to suspension, expulsion, and/or separation from the University. In addition, an individual charged may be subject to prosecution by the Office of the District Attorney under Pennsylvania Criminal Statutes.

In a study of 32 colleges and universities, one in four college women reported being a victim of rape or attempted rape during the preceding year. Eight-four percent of these victims/survivors were acquainted with their assailants.

University of Pennsylvania
Office of Affirmative Action and Equal Opportunity Programs

Policy on Individuals with Disabilities

POLICY

It is the policy of the University of Pennsylvania that no qualified individual with a disability shall, on the basis of the disability, be excluded from participation in University programs and activities, and affirmative action shall be taken with regard to the employment of qualified individuals with disabilities.

DEFINITIONS

For purposes of this policy, the following definitions apply:

- A “disability” is defined as:
 1. Any physical or mental impairment that substantially limits one or more major life activities; or
 2. Having a record of such an impairment; or
 3. Being regarded as having such an impairment.

- A “qualified individual with a disability” means an individual as defined above, who is capable of performing the essential functions of a particular job or of participating in a particular course of study, with or without reasonable accommodations for his/her disability.

- “Reasonable accommodations” are determined on a case by case basis and may include, for example:
 1. Making facilities used by faculty, staff and students readily accessible to and usable by, individuals with disabilities
 2. The acquisition or modification of equipment or devices
 3. The provision of qualified readers and interpreters
 4. Modified work schedule
 5. Restructured job responsibilities or reallocation of non-essential (marginal) job functions
 6. The appropriate adjustment or modification of examinations, training materials or policies.

REQUESTING ACCOMMODATIONS

The University will reasonably accommodate a qualified individual with a disability, provided that the accommodation does not impose an undue burden on the University. Reasonable accommodations will be provided only when an individual properly identifies him/herself as a qualified individual with a covered disability and provides the appropriate documentation. Faculty and staff should submit requests for accommodations to the Program for Faculty and Staff with Disabilities in the Office of Affirmative Action and Equal Opportunity Programs, Sansom Place East, Suite 228, 3600 Chestnut Street, (215) 898-6993. Students should contact the Office of Student Disabilities Services, Learning Resources Center, 3820 Locust Walk, Suite 110, and (215) 573-9235 for academic related accommodations and the Program for People with Disabilities for any accommodations needed for on-campus employment.

The University is not required to provide an accommodation that will have the effect of eliminating an essential function of the job in question or an essential requirement of an academic program, or to provide an accommodation or service which is personal in nature, such as a hearing aid, a wheelchair, or a personal care attendant.

FUNDING FOR ACCOMMODATIONS

If an accommodation is deemed appropriate and reasonable for an employee, then the department bears the initial responsibility for funding the accommodation. If the cost is beyond the means of the department, then higher levels in the department's reporting line should share the cost. Funding for accommodations related to a student's academic program is coordinated by the Office for Student Disabilities Services.

RESOLVING DISAGREEMENTS

The Office of Affirmative Action and Equal Opportunity Programs is responsible for ensuring the University's compliance with its equal opportunity and non-discrimination obligations arising under federal, Commonwealth and local laws. In the event that an employee or student disagrees with the determination and/or proposed accommodation, s/he may contact the Executive Director, Office of Affirmative Action and Equal Opportunity Programs, Sansom Place East, Suite 228, 3600 Chestnut Street, (215) 898-6993 for assistance in resolving the disagreement.

CONFIDENTIALITY

All medical records that are related to requests for accommodations will remain confidential and will be maintained in locked files separate from academic and personnel records. Limited information may be shared with supervisors or faculty in order to arrange for necessary accommodations, but only with the knowledge and agreement of the individual requesting the accommodation.

UNIVERSITY OF PENNSYLVANIA
OFFICE OF AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY PROGRAMS

PROCEDURE FOR RESOLVING COMPLAINTS
OF DISCRIMINATION AND HARASSMENT

INTRODUCTION

In any large and diverse organization such as the University of Pennsylvania, friction or misunderstandings may arise because of the wide variety of circumstances under which individuals interact. It is, therefore, imperative that mechanisms and resources be provided for individuals to discuss problems so that corrections and adjustments can be made where appropriate. To that end, the procedures outlined below provide methods for addressing and resolving complaints of unlawful discrimination, harassment, and/or retaliation that may arise at the University of Pennsylvania.

RESOURCES

All members of the university community should be aware of the many resources available for those seeking information and counseling about the university's non-discrimination and harassment policies, standards of behavior and available mechanisms, both formal and informal, for resolving complaints.

INFORMATION, COUNSELING AND SUPPORT

Faculty, staff and students may have a need for information, counseling or support, in which case they may be referred to, or may contact directly, the following resource offices:

- ü Office of Staff and Labor Relations
- ü Office of the Ombudsman
- ü Office of the Vice Provost for University Life
- ü African-American Resource Center
- ü Penn Women's Center
- ü Lesbian Gay Bisexual Transgender Center
- ü Student Health Services
- ü Counseling and Psychological Services
- ü Special Services Unit, Division of Public Safety

INFORMAL MECHANISMS FOR MEDIATION AND RESOLUTION

The resource offices listed above, as well as the Office of Residential Living, Department Chairs, and Deans and administrative Directors, are available to assist in the informal resolution of complaints. These informal mechanisms for mediation and resolution are intended to provide an alternative avenue for individuals to pursue. They are not a substitute for a formal complaint of discrimination, harassment, and/or retaliation. Individuals wishing to lodge an official complaint of discrimination, harassment and/or retaliation must pursue the formal mechanisms for complaint resolution listed below.

FORMAL MECHANISMS FOR COMPLAINT RESOLUTION

When informal resolution has been unsuccessful, members of the University community should pursue either formal mediation or a formal complaint of discrimination, harassment and/or retaliation through the Office of Affirmative Action and Equal Opportunity Programs. Formal complaints may also be filed with the Offices of Staff and Labor Relations and the Ombudsman.

FILING A COMPLAINT

A formal complaint under this policy must be made in writing, signed by the Complainant and submitted within 30 days after the alleged violation, if reasonably possible. The *Complaint of Discrimination or Harassment* form, which is available on the web or in the Office of Affirmative Action and Equal Opportunity Programs, must include a detailed statement of the known facts out of which the complaint arises, a request for specific relief, and the names and contact information for any witnesses to the incidents mentioned in the complaint.

Where a complaint is not timely filed, the Investigator may determine that special circumstances exist that excuse the delay, and may consider the complaint as timely filed. In instances involving a student complaint against a faculty member charging harassment or discrimination which occurred in the context of a subordinate-supervisory academic relationship (e.g. teaching, advising, thesis or dissertation supervision or coaching), the time period may be extended until 30 days after the student is no longer under the faculty member's supervision.

VOLUNTARY MEDIATION PROCESS

After receipt of the complaint and the initial consultation, the Investigator will advise the Complainant that voluntary mediation or conciliation of a complaint is available should the Complainant so desire. If the Complainant chooses to pursue this course, and the person charged with discrimination (Respondent) agrees, the Investigator will suspend the formal complaint procedure for up to 60 days (which may be extended with the written consent of all parties) to permit mediation to take place.

The Investigator may appoint a Mediator, or may serve as Mediator. At any time, any of the parties to the complaint, or the person serving as the Mediator, may terminate mediation efforts through notice to the Investigator. Upon receipt of such notification, the Investigator will notify all of the parties and may proceed with a formal investigation, if such a step is deemed warranted.

If the complaint is successfully mediated the Investigator or Mediator will prepare a Mediation Agreement, describing the terms agreed upon by both parties. The Complainant and Respondent will be expected to read and sign the Mediation Agreement, which will state that both parties agree that the dispute is fully and finally resolved, subject to the parties' compliance with any stipulated commitments.

In the event that either party fails to comply with the commitments or conditions contained in the Mediation Agreement, the other party may seek the intervention of the Investigator, who may contact the party's manager to assist with enforcement, or may institute an investigation of the underlying complaint.

UNSUCCESSFUL MEDIATION

If either party is dissatisfied with the outcome of the mediation process, or if either party decides to terminate the mediation process, the Office of Affirmative Action and Equal Opportunity Programs will initiate (or re-commence) a formal investigation of the original allegations. The investigation and mediation processes will be separate and distinct from one another and statements made, or records submitted, in the mediation process, other than the original statement of complaint and the Mediation Agreement, will not automatically be introduced into the investigation process.

FORMAL INVESTIGATION

After the initial consultation, the Investigator will determine whether the conduct complained of falls within the scope of this policy and, if voluntary mediation is refused, will conduct a confidential investigation. The investigation will be initiated as soon as possible, consistent with resource availability, and will afford both the Complainant and Respondent an opportunity to be heard. An accused individual will be notified of the complaint allegations and the identity of the Complainant unless disclosure of the Complainant's identity is deemed unnecessary to afford the Respondent a fair opportunity to respond to the allegations. Any person who reports or

complains; participates in an inquiry or investigation; or is accused of harassment/discrimination, will have the right to be accompanied by an individual of his/her choice employed by the University, who will be permitted to attend, but not otherwise participate in, the proceedings; provided that the individual selected is not otherwise involved in the investigation or their presence would not otherwise impede the investigation.

DETERMINATIONS

The outcome of the investigation may be a finding that the allegations are unwarranted or could not be substantiated; a negotiated settlement; or a finding that the allegations have been corroborated by the information presented. If the allegations have been substantiated, recommendations for corrective or disciplinary action will be forwarded to the appropriate University official. The standard of proof for administrative proceedings is that of a “preponderance of evidence” - that is, evidence which, as a whole, shows that the fact sought to be proved is more probable than not.

The Investigator will communicate the final disposition of the complaint to the appropriate University officials, the Complainant and the Respondent. The responsibility for imposing the recommended disciplinary action, will rest with the senior University official with management responsibility for the Respondent.

SANCTIONS

Sanctions imposed on those individuals who have been found to be in violation of the University of Pennsylvania’s discrimination/harassment policies shall be commensurate with the frequency and severity of the conduct, and adequate and sufficient to demonstrate the University’s commitment to taking strong and effective measures to both remedy and prevent the conduct. The sanctions may involve, without limitation, any of the following, singularly or in combination: a requirement not to repeat or continue the discriminatory or harassing conduct; a requirement to attend remedial training; appropriate workplace restrictions; an oral or written reprimand; denial of a merit pay increase; denial of promotion; or reassignment, suspension or separation from the University. Discipline will be enforced against any employee engaging in illegal discrimination or harassment and against any supervisory personnel who knowingly permit the activity or behavior to continue.

FILING AN APPEAL

Either the Complainant or Respondent may file an appeal of any decision concerning the resolution of the complaint. An appeal by either party must be made, in writing, to the President’s Vice President and Chief of Staff within 15 days of receipt of the notice of the resolution or disciplinary decision.

The written appeal must state, in detail, the reason(s) for the appeal and shall address one or more of the following:

- ü If the appeal alleges that the findings of the Investigator included relevant factual errors or omitted relevant facts, the appeal shall specify each factual error and/or details of each relevant fact that was omitted from the investigation
- ü If the appeal alleges substantive procedural errors, the person appealing shall identify each instance of said substantive procedural error
- ü If the appeal alleges relevant or substantive issues or questions concerning interpretation of University policy, the person appealing shall state, in detail, the issues or questions supporting this allegation
- ü If the appeal alleges that new information or evidence exists, the appeal shall specify the reason why this information was not available or not provided to the Investigator during the course of the investigation, including the reason why the information could not have been provided on a timely basis
- ü If the appeal alleges either that action or inaction of the supervisor in response to the findings of the investigation will not prevent future violations of this policy, the person appealing will specify, in detail, the reason(s) and basis for this allegation.

No disciplinary or other action based upon the original complaint findings shall be taken against the alleged offender during the appeals process, although temporary, interim measures may remain in place.

INTERIM ACTIONS DURING AN INVESTIGATION

In some cases, the alleged conduct specified in a complaint may be such that to protect the Complainant or other members of the University community, the University may, in its discretion, promptly elect to place the alleged offender on administrative leave with or without pay, may implement a temporary reassignment, or may implement other interim remedial measures. This leave, reassignment or other measures will generally remain in effect for the duration of the complaint investigation process.

OTHER EXTERNAL RESOLUTION PROCEDURES

An individual who believes that s/he has been subjected to unlawful discrimination, harassment or retaliation has the right to file a complaint with an appropriate local, state, or federal agency or a court with proper jurisdiction. In the event that a complaint is filed with an external agency or court, the University of Pennsylvania reserves the right to determine, in its discretion, whether the University's complaint resolution procedure described above should be discontinued or continued separately. The University will make such determination to achieve fairness and consistency in the resolution of complaints and to ensure efficient use of internal administrative resources.

STATUTE OF LIMITATIONS FOR FILING EXTERNAL COMPLAINTS

Charges or complaints can be filed with the Office of Civil Rights (OCR), the Pennsylvania Human Relations Commission (PHRC), the Equal Employment Opportunity Commission (EEOC), the Philadelphia Commission on Human Relations (PCHR), or the Office of Federal Contract Compliance Programs (OFCCP), as appropriate. Charges or complaints filed with the PHRC, PCHR, OCR, and OFCCP must be filed within 180 days of the last date of the alleged discrimination. EEOC charges and PCHR complaints must be filed within 300 days of the last act of discrimination. The Complainant should be aware that filing a complaint with the Office of Affirmative Action and Equal Opportunity Programs, or other University resource, does not extend or postpone the deadline for filing with external agencies.

INVESTIGATOR CONFLICT OF INTEREST

The Complainant or the Respondent might allege that the Investigator has a substantial conflict of interest that might impair his/her ability to conduct a fair and impartial investigation of the allegations. In that event, details supporting the alleged conflict of interest must be submitted, in writing, to the Office of Affirmative Action and Equal Opportunity Programs within 5 days of receiving notice of the identity of the Investigator. A determination will be made about the existence of a conflict of interest and, if such a conflict is found to exist, an alternative investigator will be appointed as expeditiously as possible. In the event that a request is made and an alternate investigator must be appointed, any specific time line provided for in the complaint procedure shall be suspended pending the determination and/or appointment.

CONFIDENTIALITY

The University of Pennsylvania shall protect the confidentiality of the identities of, and statements made by, the parties and witnesses involved in a discrimination/harassment report or complaint to the extent permitted by law, and to the extent that continued protection does not interfere with the University's ability to investigate allegations of misconduct brought to its attention and to take corrective action. In addition, all participants in any part of the investigation will be expected not to reveal any information, either shared or learned, during the course of these proceedings. Despite these measures, however, the University can not and does not guarantee that the parties, themselves, or the witnesses will maintain confidentiality.

Confidentiality does not mean that the details of the complaint will be withheld from the Respondent, or that the University is constrained from divulging the proceedings in appropriate circumstances. For example, the University of Pennsylvania may publicly divulge details of the outcome of an investigation if one or more of the parties disclose selective or self-serving portions of the proceedings, or when a lawsuit emerges where the Complainant or Respondent contests the findings or results of the University's investigation.

NON-RETALIATION

Retaliation against an individual who, in good faith, reports, complains about or participates in an investigation of an allegation of discrimination or harassment is prohibited by University of Pennsylvania policy and by federal law. Any individual, who feels that he or she has been retaliated against or has been threatened with retaliation, should immediately file a formal complaint as outlined above.

FALSE ACCUSATIONS

Anyone who knowingly makes a false accusation of discrimination, harassment, or retaliation will be subject to appropriate sanctions which may include, but are not limited to, written warning, demotion, transfer, suspension, dismissal, expulsion or termination.

University of Pennsylvania
Office of Affirmative Action and Equal Opportunity Programs

Employment Discrimination Laws

Federal Laws

Civil Rights Act of 1866 (Section 1981): This law, based upon the Thirteenth Amendment of the Constitution (Abolition of slavery/involuntary servitude), provides basically that “All persons...shall have the same right...to make and enforce contracts, to sue, to be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens....” This law covers racial/ethnic discrimination in private contractual relationships such as employment.

Equal Pay Act of 1963: This law prohibits sex discrimination in wages between employees performing equal work, and it is an amendment to the Fair Labor Standards Act of 1938. It covers nearly all employers covered by the Fair Labor Standards Act, regardless of race.

The 1964 Civil Rights Act: This law covers many subjects, including public accommodations and services, in addition to employment discrimination. Title VI prohibits discrimination by entities receiving financial assistance. Title VII prohibits discrimination by employers, labor organizations and employment agencies on the basis of race, color, sex, religion, and national origin. Title VII also requires that private employers of 100 or more workers file an EEO report (EEO6/IPEDS for institutions of higher education) biennially.

Age Discrimination in Employment Act of 1967: This law covers discrimination by employers, unions, and employment agencies against persons aged 40 or more. It was passed as an amendment to the Fair Labor Standards Act of 1938

Rehabilitation Act of 1973: This law covers only the federal government, contractors with the federal government, and recipients of federal financial assistance. Its prohibitions and remedies for disability discrimination and reasonable accommodation, and various procedural provisions, vary from section to section. The body of legal standards and interpretations developed under the Rehabilitation Act has been incorporated into the Americans with Disabilities Act.

Vietnam Era Veterans Readjustment Act of 1974: This law deals with the rights of Vietnam Era (September, 1964 through May, 1975) military service veterans, in terms of nondiscrimination by employers and preferential employment policies by the federal government.

The Americans with Disabilities Act of 1990: In addition to public accommodations, government services, telecommunications, and other such areas, this law in effect extends the substantive nondiscrimination and reasonable accommodations requirements of the Rehabilitation Act to private employers, unions and employment agencies generally.

The Civil Rights Act of 1991: This law basically served to amend various federal discrimination laws.

Title IX of the Educational Amendments of 1972: This law prohibits discrimination on the basis of sex by entities receiving federal financial assistance.

Federal Executive Orders

E.O. 11246 (1965): This provides that all federal contracts of a certain amount must contain provisions prohibiting discrimination on the bases of race, color, religion, or national origin. This Executive Order requires both equal employment opportunity and affirmative action. Federal contractors are required to develop, and annually update, an Affirmative Action Plan, which includes goals and timetables for the increased utilization of minorities and women. In addition, firms having non-construction government contracts must keep and make available records of work force analyses prepared separately for minorities and women for use in compliance reviews of their Affirmative Action Plans.

E.O. 11375 (1967): This added sex discrimination provisions to the above contractual requirements.

E.O. 11141 (1964): This provides for nondiscrimination on the basis of age as a contractual requirement.

E.O. 11758 (1974): This provides for federal contracts to contain provisions requiring federal contractors to foster the employment of qualified handicapped persons.

Pennsylvania Human Relations Act

The Pennsylvania Human Relations Act states that it is the policy of the Commonwealth to “foster the employment of all individuals in accordance with their fullest capacities regardless of their race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, use of guide or support animals because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, and to safeguard their right to obtain and hold employment without such discrimination, to assure equal opportunities to all individuals and to safeguard their rights to public accommodations and to secure housing accommodation and commercial property regardless of race, color, familial status, religious creed, ancestry, age, sex, national origin, handicap or disability, use of guide or support animals because of blindness or deafness of the user or because the user is a handler or trainer of guide or support animals.”

Pennsylvania Fair Educational Opportunities Act

The act states that it is the policy of the Commonwealth “that all persons shall have equal opportunities for education regardless of their race, religion, color, ancestry, national origin, sex, handicap or disability.”

Philadelphia Fair Practices Ordinance

This ordinance states that no employer in the City of Philadelphia shall discriminate against any employee or applicant in the terms or conditions of employment on the basis of race, color, sexual orientation, gender identity, religion, national origin, ancestry, age, or handicap.