

Article 20: Sexual Harassment (Title IX)

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Note: The following sections contain terminology defined in both federal and state laws. Definitions of such terminology may be found in Section 15 of this document.

1. Purpose

Pittsburg State University is committed to providing an educational and employment environment that is free from discrimination based on protected characteristics, harassment, and retaliation for engaging in protected activity.

Pittsburg State University has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sexual harassment that involve students and employees.

Pittsburg State University may investigate incidents of sexual harassment committed by or against a student, Pittsburg State University employee, or former student or former employee which is reported to have occurred within an educational program or activity that Pittsburg State University has substantial control over. The investigation may be pursued through the Pittsburg State University discipline (grievance) process. In addition, a student or employee may decide to pursue action through the criminal justice system. Internal and Pittsburg State University discipline processes are independent of criminal or external processes. Should the criminal or external process be dismissed, or reduced, Pittsburg State University may continue to pursue disciplinary action.

2. Notice of Nondiscrimination

Pittsburg State University prohibits all forms of sexual harassment including quid pro quo harassment, hostile environment harassment, domestic violence, dating violence, sexual assault, and stalking.

Title IX of the Education Amendments Act of 1972 is a federal law that states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

3. Mandated Reporting

Pittsburg State University employees (including student employees) who are employed in a position of authority, except for those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not have to be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the Pittsburg State University. Supportive measures may be offered as the result of such disclosures without formal Pittsburg State University action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment, discrimination, or retaliation of which they become aware is a violation of Pittsburg State University Policy and can be subject to disciplinary action for failure to comply/failure to report.

At the request of a Complainant, notice may be given anonymously (i.e., without identification of the Complainant) to the Title IX Coordinator by a Mandated Reporter. The Mandated Reporter cannot remain anonymous themselves. If a Complainant has requested that a Mandated Reporter maintain the Complainant’s anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information. Anonymous notice will be investigated by Pittsburg State University to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous notice typically limits Pittsburg State University’s ability to investigate, respond, and provide remedies, depending on what information is shared. When a Complainant has made a request for anonymity, the Complainant’s personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this Policy, they still have a duty to report their own misconduct, though Pittsburg State University is technically not on notice simply because a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

4. Reporting Incidents of Sexual Harassment

The following people have a right to make a complaint of sexual harassment, requesting that Pittsburg State University investigate and decide about alleged sexual harassment under Title IX:

- 1) A “complainant,” which includes:
 - A. a student or employee of Pittsburg State University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX;
 - B. or Pittsburg State University’s Title IX Coordinator.

A parent, friend or other third-party may not file a formal complaint on behalf of a complainant to initiate an investigation.

A person is entitled to make a complaint of sexual harassment only if they themselves are alleged to have been subjected to the sexual harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with federal requirements.

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this Policy and procedures, may be made internally to:

Jamie Lynn Blum
Director of Institutional Equity and Title IX Coordinator
Russ Hall #212
1701 S. Broadway St.
Pittsburg, Kansas 66762 2
620-235-4189 (Office)
337-378-2320 (Cell)
Email: Jamie.blum@pittstate.edu or titleix@pittstate.edu
Web: <http://pittstate.edu/titleix>

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012

TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

In accordance with federal law students who wish to report sexual harassment must file a formal complaint with University Title IX Officials. When Pittsburg State University receives a formal complaint of sexual harassment, Title IX Officials must promptly contact the complainant to discuss the availability of supportive measures and explain to the complainant the Title IX process. A complainant's wishes with respect to whether Pittsburg State University investigates should be respected unless Title IX Officials determine that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable considering the known circumstances. Pittsburg State University will treat complainants and respondents equitably. Pittsburg State University requires that any Title IX Coordinator, investigator, or Hearing Panelists not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Pittsburg State University presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Pittsburg State University may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Pittsburg State University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

5. Supportive Measures

Pittsburg State University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the Pittsburg State University's education program or activity or provide support during Pittsburg State University's Title IX grievance procedures or during the informal resolution process.

For complaints of sexual harassment where a party is a student at Pittsburg State University, these supportive measures may include

- A. Mutual no-contact order,
- B. Change in on-campus housing or on-campus work locations,
- C. Modifications of work or course schedules,
- D. Altering deadlines or other course-related adjustments,
- E. Campus escorts, and/or
- F. Leaves of absence.

For complaints of sexual harassment where a party is an employee at Pittsburg State University, these supportive measures may include:

- G. Mutual no-contact order,
- H. Change in on-campus work locations,
- I. Modifications of work schedules,
- J. Campus escorts, and/or
- K. Leaves of absence.

6. Emergency Removal

If it is determined that continued participation in Pittsburg State University sponsored activities, events, or programs poses an immediate threat to the physical health or safety of any student or other individual, the respondent may be removed, on an emergency basis, provided Pittsburg State University undertakes an individualized safety and risk analysis (performed by members of Pittsburg State University's Threat Assessment and Behavior Intervention Team). A determination of an immediate threat to the physical health or safety of any student or other individual arising from the allegation(s) of sexual harassment justifies removal.

Pittsburg State University will provide the respondent with notice, via official University email, and an opportunity to challenge the decision. Appeals must be presented to the Title IX Coordinator within 5 business days from the notice being sent. The Title IX Coordinator will then forward the challenge to the Vice President of Student Affairs and Enrollment Management for review. Upon completion of the review, the Vice President for Student Life will respond, via official University email, to the challenge within 5 business days from the date the challenge is received. The decision delivered by the Vice President of Student Affairs and Enrollment Management will be considered final regarding Emergency Removal.

7. Voluntary Informal Resolution

At any time prior to reaching a determination of responsibility, Pittsburg State University may, at the request of either the complainant or respondent, facilitate a voluntary informal resolution process, such as mediation, that does not involve a full investigation and adjudication. Pittsburg State University will not offer an informal resolution process unless a formal complaint is filed, and Pittsburg State University must obtain the parties' voluntary, written consent to the informal resolution process. Written consent, to initiate the voluntary informal resolution process must be sent to the Title IX Coordinator via official University email.

Pittsburg State University will not require as a condition of enrollment (or continuing enrollment or enjoyment of any other right) waiver of the right to an investigation and adjudication of formal complaints. Additionally, Pittsburg State University will not require the parties to participate in an informal resolution process.

To proceed with informal resolution, Pittsburg State University must provide the parties with written notice which discloses:

- 1) The allegation(s),
- 2) The requirements of the informal resolution process,
- 3) Prior to agreeing to resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and
- 4) Any consequences resulting from participating in the informal resolution process, including the records which will be maintained or could be shared.

8. Investigating Alleged Sexual Harassment

Pittsburg State University's formal obligation to investigate a report of sexual harassment under the Title IX process is triggered by the filing of a "formal complaint." A formal complaint is a physical or electronic document signed by an alleged victim of sexual harassment or Title IX Officials specifically requesting an investigation. However, at the time of filing a formal complaint, the complainant must be participating in or attempting to participate in Pittsburg State University's education program or activity. A parent, friend or other third-party may not file a formal complaint on behalf of a complainant to initiate an investigation. Title IX Officials may file a formal complaint based on a report made by a parent, friend or third-party only after consulting with the complainant.

In the event a complainant decides to withdraw their formal complaint, the Title IX Coordinator has the option to sign a formal complaint to initiate the Title IX process. For example, where a Title IX Coordinator has received multiple reports of sexual harassment against the same respondent.

Pittsburg State University personnel will assist in the reporting process if requested by the complainant. Pittsburg State University Title IX Officials may guide the complainant through the available options. As a complainant, the individual has the option to decline to notify law enforcement or campus authorities or to participate in an investigation. However, circumstances may dictate that Pittsburg State University pursues an internal investigation and response even without the complainant's assistance.

For Pittsburg State University disciplinary proceedings, the "preponderance of evidence" standard of evidence will be utilized. A preponderance of evidence standard evaluates whether it is more likely than not, based on the evidence available, that a violation occurred.

A. Notice of Investigation

Upon initiation of these Title IX grievance procedures, Pittsburg State University will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- 1) Pittsburg State University's Title IX grievance procedures and any informal resolution process;
- 2) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sexual harassment, and the date(s) and location(s) of the alleged incident(s);
- 3) Retaliation is prohibited;
- 4) The respondent is presumed not responsible for the alleged sexual harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Title IX Hearing Panel;
- 5) The parties may have an Advisor of their choice who may be, but is not required to be, an attorney;
- 6) The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence; and
- 7) Pittsburg State University's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during grievance procedures.

If, during an investigation, Pittsburg State University decides to investigate additional allegations of sexual harassment by the respondent toward the complainant that are

not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

B. Dismissal of a Complaint

Pittsburg State University must dismiss the Title IX complaint if at any point it is determined the conduct alleged:

- 1) Does not constitute sexual harassment,
- 2) Did not occur in Pittsburg State University's education program or activity, or
- 3) Did not occur against a person in the United States.

Apart from the above mandatory dismissal provisions, Pittsburg State University may dismiss a formal complaint at any time if:

- 1) The complainant would like to withdraw the complaint,
- 2) The respondent is no longer enrolled at Pittsburg State University, or
- 3) Specific circumstances prevent Pittsburg State University from gathering evidence sufficient to reach a determination.

Upon dismissal, Pittsburg State University will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Pittsburg State University will notify the parties simultaneously in writing.

When a complaint is dismissed, Pittsburg State University will, at a minimum:

- 1) Offer supportive measures to the complainant as appropriate;
- 2) If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- 3) Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Pittsburg State University's education program or activity.

C. Evidence Gathering and Pre-Hearing Guidelines Once the Investigation Begins

Pittsburg State University will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

Pittsburg State University will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the Advisor of their choice, who may be, but is not required to be, an attorney. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

- 1) Pittsburg State University will not limit the choice or presence of the Advisor for the complainant or respondent in any meeting or proceeding.
- 2) Pittsburg State University may establish restrictions regarding the extent to which the Advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

Pittsburg State University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

Pittsburg State University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or Advisors; or otherwise prepare for or participate in the grievance procedures.

Pittsburg State University will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Pittsburg State University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- A. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- B. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Pittsburg State University obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- C. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's

prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sexual harassment or preclude determination that sexual harassment occurred.

The burden of proof is on Pittsburg State University —not on the parties— to investigate and gather sufficient evidence to determine whether sex discrimination occurred.

- a) Any records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional may only be obtained by Pittsburg State University with the party's voluntary written consent.
- b) Parties may present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- c) Pittsburg State University will not restrict the ability of either party to discuss the allegation(s) under investigation or to gather and present relevant evidence.

Prior to the hearing Pittsburg State University will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation, including the evidence upon which Pittsburg State University does not intend to rely in reaching a determination regarding responsibility.

- 1) Pittsburg State University will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence. The parties have at least 10 days to submit a written response, to the Title IX Coordinator via official University email, which will be considered prior to completion of the investigative report;
- 2) Pittsburg State University will provide a reasonable opportunity to review and respond to the evidence or the investigative report. A copy of the final investigative report will be sent electronically to both parties at least 10 business days prior to a live hearing;
- 3) Pittsburg State University will take reasonable steps to prevent and address the parties' and their Advisors' unauthorized disclosure of information and evidence obtained solely through the sexual harassment grievance procedures.

9. Live Hearing

Upon completion of the Title IX investigation, with all minimum standards having been met, Pittsburg State University will provide a live hearing. The live hearing will be conducted by the Title IX Coordinator and a Title IX Hearing Panel with one person serving as the facilitator. The facilitator has the responsibility to determine the relevancy of questions and explain in real-time any decision not to permit a question.

- 1) Live hearings may be conducted virtually, or in person. At either party's request, Pittsburg State University must provide the parties with separate rooms and use technology so the decision-makers and parties may simultaneously see and hear the questions,
- 2) Pittsburg State University will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.
- 3) Each party is required to have an Advisor present for the hearing. The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses. If either party does not have an Advisor, Pittsburg State University will provide an Advisor who is trained. Pittsburg State University cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, Pittsburg State University is not obligated to provide an attorney to advise that party.
- 4) Each party's Advisor will be permitted to ask the other party and any witness(es) all relevant questions and follow-up questions, including questions which challenge credibility.
- 5) Cross-examination at the live hearing must be conducted directly, orally, and in real-time by the party's Advisor of choice and never by a party personally.
- 6) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- 7) If a party or witness does not submit to cross-examination at the live hearing, the Title IX Hearing Panel must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX Hearing Panel cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- 8) If a party or witness refuses to submit to cross-examination, then Pittsburg State University is required to ignore that person's statement and reach a decision based on the remaining body of relevant evidence. Pittsburg State University is not,

however, permitted to draw an adverse inference based on the mere fact that an individual refused to submit to cross-examination.

- 9) The standard of evidence used to determine responsibility at any Title IX Hearing is the preponderance of the evidence.

10. Hearing Outcome

After the hearing, the Title IX Hearing Panel must issue a written determination of responsibility applying the preponderance of the evidence standard within 5 business days of the conclusion of the hearing. Written determinations will be submitted to the Title IX Coordinator who will then simultaneously deliver the determinations electronically via each party's University issued email account.

The written determination must contain the following elements:

- 1) Identification of the allegation(s) at issue,
- 2) Description of the procedural steps taken throughout the case,
- 3) Findings of fact supporting the determination,
- 4) Conclusion(s) regarding application of Pittsburg State University's Title IX Policy,
- 5) A statement and rationale as to the determination for each allegation,
- 6) A statement of any disciplinary sanctions imposed upon the respondent and remedies provided to the complainant, and
- 7) A description of the procedures and permissible grounds for appeal.

11. Sanctions

The purposes of imposing sanctions are twofold: to protect the Pittsburg State University community from behaviors that are detrimental to the educational process of the community; and to assist students, student organizations, and employees in identifying acceptable parameters of their activities and consequences of future behaviors. The severity of the sanctions imposed is intended to correspond with the severity or frequency of violation, as well as the willingness of the accused to recommit to good citizenship through behaviors that fall within the conduct regulations of Pittsburg State University. The following disciplinary sanctions may be imposed upon students, or student organizations, found responsible of a violation either singly and/or in combination:

- 1) Expulsion
- 2) Suspension
- 3) Residence Hall Eviction
- 4) Disciplinary Probation
- 5) Disciplinary Warning
- 6) Restitution
- 7) Suspension of the Privileges of a Registered Student Organization
- 8) Termination of the Registration of a Registered Student Organization

9) Specifically Defined Sanction

Investigations and hearings involving a Pittsburg State University employee as the respondent will defer to the Employee Handbook regarding Disciplinary Sanctions.

12. Appeals

Upon receipt of the hearing outcome, either party is allowed to appeal the determination or any dismissal of the complaint on the following grounds:

- 1) Procedural irregularity that affected the outcome,
- 2) New evidence that was not available at the time the hearing decision was made,
or
- 3) Conflict of interest or bias by the institutional participants that affected the outcome.

Appeals must be in writing (stating the grounds for the appeal) and submitted electronically to the Vice President of Student Affairs and Enrollment Management Life within 5 business days from the date of the hearing outcome letter. When an appeal is filed, the non-appealing party must be notified of the appeal and allowed to submit a written statement in response. The written response from the non-appealing party must be submitted electronically to the Vice President of Student Affairs and Enrollment Management and received within 5 business days of the notification of appeal.

Both parties will simultaneously receive an official University email, within 10 business days from the date of the hearing outcome letter, a written decision describing the result of the appeal and the rationale for the result which shall be final.

13. Retaliation

Pittsburg State University, nor any other person, may engage in acts which intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or 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.

14. Recordkeeping

Pittsburg State University must maintain the following records of all Title IX complaints and resolutions for 7 years:

- 1) Each sexual harassment investigation including any determination regarding responsibility;
- 2) Any audio or audiovisual recording or transcript;
- 3) Any disciplinary sanctions imposed on the respondent;

- 4) Any remedies provided to the complainant are designed to restore or preserve equal access to Pittsburg State University's education program or activity;
- 5) Any appeal and the result;
- 6) Any informal resolution and the result therefrom; and
- 7) All materials used to train Title IX Coordinators, investigators, Title IX Hearing Panel, and any person who facilitates an informal resolution process. Pittsburg State University must make these training materials publicly available on its website.

15. Definitions

- A. **Advisor:** Both the complainant and the respondent have equal right to select an individual to serve as their Advisor. The Advisor may, but does not have to be, an attorney. The Advisor may accompany the participant at any or all meetings and interviews related to the formal Title IX complaint. Pittsburg State University retains the ability to limit the role of the Advisor in interviews and meetings as long as it does so equally for both parties.
- B. **Business Days:** Are defined as University business days (Monday-Friday) that Pittsburg State University is open.
- C. **Complaint:** An oral or written request to Pittsburg State University that objectively can be understood as a request for Pittsburg State University to investigate and make a determination about alleged discrimination under Title IX or its regulations
- D. **Complainant:**
 - 1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
 - 2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in Pittsburg State University's education program or activity at the time of the alleged sex discrimination.
- E. **Consent:** A freely and affirmatively communicated willingness to participate in sexual activity, expressed either by words or clear, unambiguous actions. It is the responsibility of the initiator of the sexual activity to ensure he or she has the other person's consent to engage in sexual activity. Consent must be present throughout the sexual activity by all parties involved. At any time, a participant can communicate that he or she no longer consents to continuing the activity. Consent may never be:
 - 1) Obtained through the use of force, coercion, intimidation, or manipulation or if the victim is mentally or physically disabled or incapacitated, including through the use of drugs or alcohol, or,

- 2) Assumed because of the existence of a dating relationship between the persons involved or due to the existence of a current or previous sexual relationship between the persons.
- F. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.
- 1) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - 2) For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - 3) Dating violence does not include acts covered under the definition of domestic violence.
 - 4) Any incident meeting this definition is considered a crime for the purposes of CLERY Act reporting.
- G. **Determination:** A conclusion by the standard of proof that the alleged conduct occurred and whether it did or did not violate policy.
- H. **Domestic Violence:** A felony or misdemeanor crime of violence committed:
- 1) By a current or former spouse or intimate partner of the complainant.
 - 2) By a person with whom the complainant shares a child in common.
 - 3) By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner.
 - 4) By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
 - 5) 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 the jurisdiction in which the crime of violence occurred.
- I. **Education program or activity:** Means locations, events, or circumstance where Pittsburg State University exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and includes any building owned or controlled by a student organization that is officially recognized by Pittsburg State University.
- J. **Finding:** A conclusion by the standard of proof that the conduct did or did not occur as alleged.
- K. **Formal Complaint:** A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Pittsburg State University investigate the allegation(s) of sexual harassment. To file a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of Pittsburg State University. A

formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. The complaint must include either a physical, electronic, or digital signature.

- L. **Investigator:** The person or persons charged by Pittsburg State University with gathering facts about an alleged violation of the Title IX policy, assessing relevance, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- M. **Notice:** Formal communication between Pittsburg State University and parties involved in the Title IX process.
- N. **Officials with Authority (OWAs):** An employee who has responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of Pittsburg State University.
- O. **Parties:** The Complainant(s), Respondent(s), Witness(es), collectively.
- P. **Position of Authority:** An employee who has the power to make official decisions regarding academics, academic conduct, behavioral conduct, and any employee in a supervisory or leadership role.
- Q. **Remedies:** Post finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Pittsburg State University's educational program.
- R. **Respondent:** An individual is alleged to have violated Pittsburg State University's prohibition on sex discrimination.
- S. **Result:** Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within Pittsburg State University. The result must include any sanctions imposed by Pittsburg State University.
- T. **Retaliation:** Actions or behaviors designed to intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or 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. The exercise of rights under the First Amendment (free speech) is not retaliation.
- U. **Sanction:** A consequence imposed by Pittsburg State University on a Respondent who is found to have violated Pittsburg State University's Title IX policy.
- V. **Sexual Assault:** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system.
 - 1) **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 complainant.
 - 2) **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent

because of his/her age or because of his/her temporary or permanent mental incapacity.

- 3) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. iv. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

W. Sexual Harassment: Is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- 1) Quid pro quo harassment: An employee, agent, or other person authorized by Pittsburg State University to provide an aid, benefit, or service under Pittsburg State University's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- 2) Hostile environment harassment: Unwelcome sexual conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Pittsburg State University's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a) The degree to which the conduct affected the complainant's ability to access Pittsburg State University's education program or activity;
 - b) The type, frequency, and duration of the conduct;
 - c) The parties' ages, roles within Pittsburg State University's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d) The location of the conduct and the context in which the conduct occurred; and
 - e) Other sexual harassment in Pittsburg State University's education program or activity; or
- 3) Specific offenses:
 - a) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 - b) Dating violence meaning violence committed by a person:
 - c) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

- d) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship;
 - b. The type of relationship; and
 - c. The frequency of interaction between the persons involved in the relationship;
- 4) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - a) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of Pittsburg State University, or a person similarly situated to a spouse of the victim;
 - b) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c) Shares a child in common with the victim; or
 - d) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- 5) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - a) Fear for the person's safety or the safety of others; or
 - b) Suffer substantial emotional distress.

For the purposes of this definition:

- i. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- ii. Reasonable person means a person under similar circumstances and with similar identity to the complainant.
- iii. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- iv. Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

X. **Supportive Measures:** Individualized services offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- 1) Restore or preserve that party's access to Pittsburg State University's education program or activity, including measures that are designed to protect the safety of the parties or Pittsburg State University's educational environment; or
 - 2) Provide support during Pittsburg State University's grievance procedures or during an informal resolution process.
- Y. **Title IX Coordinator:** Pittsburg State University official designated to ensure compliance of Title IX and Pittsburg State University's Title IX program.
- Z. **Title IX Hearing Panel** - Those who have decision-making and sanctioning authority within Pittsburg State University's grievance process.
- AA. **Title IX Officials:** Any official designated by Pittsburg State University to assist with the compliance of Title IX and Pittsburg State University's Title IX program.

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