



Pittsburg State University

Student Life

Policy on Sexual Misconduct and Relationship Violence

Pittsburg State University prohibits all forms of sexual misconduct and relationship violence to include rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking.

The University may investigate incidents of sexual misconduct or relationship violence committed by or against a student, regardless if the alleged incident occurred on or off campus. The investigation may be pursued through the criminal justice system and/or the University discipline proceedings. Internal and University discipline proceedings are independent of criminal or external proceedings. Should the criminal or external proceedings be dismissed, or reduced, the University may continue to pursue disciplinary action.

University personnel will assist in the report process if requested by the victim. A representative from the University Police, the Office of Student Rights and Responsibilities, and/or the Office of Equal Opportunity and Affirmative Action will guide the victim through the available options and support the victim in his or her decision. As a victim, 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 the university pursues investigation and response even without the victim's assistance.

Investigating Alleged Sexual Misconduct

When the University receives any report of a sexual assault, the University's Title IX Coordinator will be immediately notified of the alleged assault by the office receiving the report. The Title IX Coordinator will work directly with the Office of Student Rights and Responsibilities, and will promptly begin an investigation to determine what occurred and will inform and obtain consent from the victim before beginning any disciplinary proceedings.

If the victim requests confidentiality or asks that the complaint not be pursued, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a victim insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the University's ability to respond may be limited.

The University will not tolerate retaliation in any form against anyone raising a concern of sexual misconduct in good faith as a complainant or participating as a witness, an investigator or in any other capacity. Retaliation is typically a significant adverse action taken against an individual because the individual participated in an internal complaint process. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination, sexual violence or harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the allegation. Allegations of or questions about retaliation should be directed to the Title IX Coordinator or to any one of the designated University resource offices.



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The responsibility to investigate and possibly adjudicate anyone for violations of this policy is provided by the Violence Against Women Act (VAWA). Compliance with the provisions of VAWA does not constitute a violation of the General Education Provisions Act, commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

Possible Protective Measures

In an effort to protect those directly involved in an alleged incident of sexual misconduct or relationship violence, protective measures may be implemented where reasonably available. The measures may include, but are not limited to:

- A. No Contact Order
- B. Change in on-campus housing location to a different on-campus option
- C. Adjusting a student's class schedule
- D. Altering course assignments with assistance of the assigned faculty member
- E. Assistance with transportation and working situations

In instances where the University determines there to be a risk to members of the University community, or where continued class attendance will disrupt normal operations of the University, the respondent may temporarily be suspended. This suspension may limit the respondent's access to various University buildings, services, activities, and privileges. If a student who was temporarily suspended is later found "not in violation" all rights, responsibilities, and privileges will be restored. Any academic work missed by the student due to the suspension will be given an opportunity for completion, at the reasonable discretion of the faculty.

University Discipline Process

Special guidelines for cases involving sexual misconduct, rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking are detailed in Article 34 of the *Code of Student Rights and Responsibilities*, available at www.pittstate.edu/audiences/current-students/policies/rights-and-responsibilities/student-conduct-code.dot.

The *Code of Students Rights and Responsibilities* provides, in part, that the discipline process will

- provide for a prompt, fair, and impartial investigation and resolution of allegations;
- be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
- provide the accuser and the accused equal opportunity to have others present during an institutional disciplinary proceeding including the opportunity to be accompanied to any



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related meeting or proceedings by an advisor of their choosing (not as a representative or presenter of information, but as an advisor);

- inform in writing both the accuser and the accused simultaneously of the notice of hearing(s), the outcomes of any institutional disciplinary proceeding that arises from an allegation, the procedures for the accused and the victim to appeal the results of the proceedings, any change to the results that occurs prior to the time that such results become final, and the date when such results become final.

Standard of Evidence: For any Pittsburg State University disciplinary proceedings (including those arising from allegations of rape, acquaintance rape, domestic violence, dating violence, sexual assault or stalking) the **“preponderance of evidence” standard of proof 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.**

Conduct Sanctions

The purposes of imposing sanctions are twofold: to protect the University community from behaviors that are detrimental to the educational process of the community; and to assist students and student organizations 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 the 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
10. Summary Suspension

Appeals

A decision reached by the Hearing Officer or Campus Judicial Officer may be appealed by the accused to the Vice President for Student Life within five (5) school days of the Hearing Committee’s decision. Such appeal shall be in writing and shall be delivered to the Vice President for Student Life. A student, or student organization, is entitled to only one appeal and



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the decision of the Vice President for Student Life shall be final. An appeal may be sought on only two grounds:

1. on a claim of error in the hearing procedure.
2. on a claim of new information or information material to the case which was not available at the time of the hearing.

The appeal shall state its grounds. The Vice President for Student Life has five (5) school days to make a written determination on the appeal. Notification of decision regarding the appeal shall be sent to the accused, the Hearing Officer, the Director of Rights and Responsibilities, and to the complaining party. If the Vice President for Student Life finds that one of the two grounds for appeal existed, the matter shall be returned to the Hearing Officer for re-opening of the hearing to allow reconsideration of the original determination and/or sanctions.

Definitions

- A. **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.
- B. **Sex Offenses:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape-** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - **Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 - **Incest** – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape** – Sexual intercourse with a person who is under the statutory age of consent.
- C. **Domestic Violence:** A felony or misdemeanor crime of violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
 - By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- D. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.



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- 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.
 - For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating violence does not include acts covered under the definition of domestic violence.
 - Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
- E. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- Fear for the person's safety or the safety of others; or
 - Suffer substantial emotional distress.
- For the purposes of this definition:
- *Course of conduct* means two or more acts, including, but not limited to, acts 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.
 - *Reasonable person* means a person under similar circumstances and with similar identity to the victim.
 - *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
- F. **Programs to prevent dating violence, domestic violence, sexual assault, and stalking:** Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that:
- Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
 - Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.
- Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees.
- G. **Awareness programs:** Community-wide or audience specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.



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H. **Bystander intervention:** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking.

Bystander intervention includes:

- Recognizing situations of potential harm.
- Understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking actions to intervene.

I. **Ongoing prevention and awareness campaigns:** Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution.

J. **Primary prevention programs:** Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in a healthy and safe direction.

K. **Risk reduction:** Options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

L. **Prompt, fair, and impartial proceeding:** A proceeding that is completed within reasonably prompt timeframes designated by an institution's policy, including a process that allows for the extension of timeframes for good cause and with written notice to the accuser and the accused of the delay and the reason for the delay.

Conducted in a manner that:

- Is consistent with the institution's policies and transparent to the accuser and accused;
- Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
- Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
- Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

M. **Advisor:** Any individual who provides the accuser or accused support, guidance, or advice.

N. **Proceeding:** All activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings.



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Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

- O. **Result:** Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution.

The result must include any sanctions imposed by the institution.

NOTE: The above definitions are a requirement for compliance with federal mandates. Violations of Kansas State Statutes relating to sexual assault or sexual misconduct may also be adjudicated as part of this policy.

Approved 7/20/15