

TEMPLE UNIVERSITY

POLICIES AND PROCEDURES MANUAL

Title:	Preventing and Addressing Sexual Assault, Domestic Violence, Dating Violence, and Stalking
Policy Number:	04.82.02
Issuing Authority:	Office of the President
Responsible Officer:	University Counsel
Date Created:	September 10, 1992
Date Last Amended/Reviewed:	July 1, 2015
Date Scheduled for Review:	March 2017
Reviewing Office:	Office of University Counsel

Scope of Policy & Rationale:

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

Policy Statement

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

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

Definitions

- (1) Consent: Consent in relationship to sexual activity is defined in Pennsylvania in accordance with its plain and common meaning.¹ With respect to sexual activity, consent means words or actions that show a knowing and voluntary agreement to engage

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

in mutually agreed sexual activity. Mere assent (an affirmative statement or action) does not constitute consent if it is given by a person who is unable to make a reasonable judgment concerning the nature or harmfulness of the activity because of his or her incapacitating intoxication, unconsciousness, youth, mental deficiency or incapacity, or if the assent is the product of threat or coercion.² Consent to prior sexual activities does not constitute consent to future acts.

(2) Sexual Assault:

Includes any of the following:

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

(3) Domestic Violence: means an act of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or who has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim, by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the Commonwealth of Pennsylvania, or as "domestic violence" is otherwise defined under the laws of the Commonwealth of Pennsylvania.³

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

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

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

² See 18 Pa.C.S.A. §311.

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

- (5) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer severe emotional distress; or as “stalking” is otherwise defined by the law of the Commonwealth of Pennsylvania. One engages in an impermissible course of conduct if one engages in two or more acts that include, but are not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates about a person in a way prohibited as described above, or interferes with a person’s property.⁴

Education and Prevention Programs

The university’s Wellness Resource Center and Department of Human Resources are responsible for education and prevention programs.

The university’s Wellness Resource Center is responsible for developing and implementing a comprehensive, institution-wide education and prevention campaign for students related to prevention of sexual assault, domestic violence, dating violence, and stalking.

The Wellness Resource Center’s responsibilities include:

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

In addition to the prevention and educational responsibilities of the Wellness Resource Center, Tuttleman Counseling Services is responsible for providing counseling services to students who have experienced sexual assault, domestic violence, dating violence, and stalking.

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

⁴ See 18 Pa.C.S.A. § 2709.1.

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

Assistance for Victims

The university will assist victims of sexual assault, domestic violence, dating violence, and stalking regardless of whether the individual proceeds with a complaint through the university or through the criminal justice system.

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

Campus Resources

- Campus Safety Services (<http://www.temple.edu/safety/>)
- Title IX Coordinator (<http://www.temple.edu/eoc/>)
 - Sandra Foehl, Director, Office of Equal Opportunity Compliance
- Student Health Services (<http://www.temple.edu/studenthealth/>)
- Tuttleman Counseling Services (including Sexual Assault Counseling and Education) (<http://www.temple.edu/studentaffairs/counseling/>)
- Wellness Resource Center (<http://www.temple.edu/studentaffairs/heart/>)
- Office of Student Conduct and Community Standards (<http://www.temple.edu/studentaffairs/student-services/student-conduct-community-standards.aspx>)

Off-Campus Resources

- Philadelphia Police (911)
- The Philadelphia Sexual Assault Response Center (215.800.1589)
<https://www.drexelmed.edu/Home/AbouttheCollege/DepartmentsCentersandInstitutes/ClinicalDepts/EmergencyMedicine/DivisionofForensicEmergencyMedicine.aspx>
- North Central Victims Services Counseling Services (215.763.3282)
- Women in Transition Counseling (215.763.1111)
- Women Organized Against Rape Hotline (215.985.3333)
- Pennsylvania Coalition Against Rape (<http://www.pcar.org/>)

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

Procedures for Reporting a Complaint

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

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

After an incident of sexual assault, domestic violence, dating violence, or stalking, the victim should consider seeking medical attention and/or law enforcement assistance as soon as possible. In circumstances of sexual assault, health care providers can treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted disease. Although the university strongly encourages all members of its community to report violations of this policy to law enforcement, it is the victim's choice whether or not to make such a report.

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

Formal Complaints

Persons wishing to file formal complaints of sexual assault, domestic violence, dating violence, or stalking will be directed (and, whenever possible, escorted) to the office of Campus Safety Services, which is primarily responsible for supervising university investigations of these complaints. At the complainant's request, the Philadelphia Police Department's Special Victims Unit will be contacted to lead any criminal investigation. All formal complaints will be treated confidentially, consistent with applicable legal requirements and customary law enforcement practices. Victims will be informed promptly of available support services, as well as legal and administrative options, if reasonably available, such as protection from abuse orders through an appropriate court of law and changes to housing assignments and academic or work schedules.

Complainants will be informed about the outcome of any investigation undertaken by Campus Safety Services. In addition, under appropriate circumstances, the university will inform members

of the university community of reported sexual assaults, domestic violence, dating violence, or stalking without identifying the victim. In appropriate cases, reports made to Campus Safety Services will automatically be referred to the Office of Student Conduct and Community Standards.

Formal Disciplinary Procedures

Whether or not criminal charges are filed, the university or a person may file a complaint with the university alleging that a member of the University community violated this policy on Preventing and Addressing Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

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

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

Student conduct Code Process

1. The complainant⁵ and the accused student each have the opportunity to attend and to present evidence at a hearing before a properly trained hearing board;
2. The complainant and the accused student each have the opportunity to be advised by a personal advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing;
3. A student conduct decision is based on the "more likely than not" standard. In other words, the conduct process asks: "is it more likely than not that the accused student violated the university's Student Conduct Code?";
4. The complainant and the accused student will be notified simultaneously in writing of

⁵ In the event a victim of sexual assault, dating or domestic violence, or stalking is not also the complainant, the victim will be afforded the same procedural rights as a complainant.

- any university disciplinary actions taken against the accused student, as well as any changes to those disciplinary actions; and
5. The complainant and the accused student each have the right to appeal the outcome of the hearing and will be notified simultaneously in writing of the final outcome after the appeal is resolved.

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

Informal Complaints

If a person reports to a university administrator, department head, or faculty member that she or he has been a victim of sexual assault, domestic violence, dating violence, or stalking but chooses not to file a formal complaint at that time, the complainant will be referred immediately to Tuttleman Counseling Services and promptly notified of available support services on- and off- campus and alternative remedies. Informal complaints to university personnel will be treated confidentially consistent with applicable legal requirements and safety considerations. Complainants should also consider speaking with the Title IX Coordinator and/or the Office of Equal Opportunity Compliance (www.temple.edu/eoc) who can help guide her or him through the appropriate process.

Confidentiality

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

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

Student victims of sexual misconduct can report confidentially to:

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

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

Employee victims of sexual misconduct can report confidentially to:

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

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

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

The Psychological Services Center (PSC)
T: 215.204.7100 or e-mail psc@temple.edu to request an appointment.

The PSC is located in Temple University's Entertainment and Community Education Center (ECEC) at 1509 Cecil B Moore Ave, Suite 420, Philadelphia, PA 19121.

Sanctions

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

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

Review

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

Notice

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

Notes

1. Dates of official enactment and amendments:

Adopted by the President on September 10, 1992.

2. History:

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

Supersedes:

Reviewed By:

3. Cross References/Appendix:

Sexual Harassment policy #04.82.01
Preventing and Addressing Discrimination and Harassment policy #04.81.11
Student Conduct Code policy #03.70.12
Ratification of Nondiscrimination policy #04.81.01
Nondiscriminatory policy (as to Students) #04.81.02
Ethnic Intimidation policy #04.81.03

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