Title IX 2025

Sexual Violence and Sexual Harassment Misconduct Policy

Announcements Regarding New Title IX Regulations

On January 8, 2025, a federal court ruling has rescinded the department of Education's Office for Civil Rights 2024 Title IX Regulations. as a result, all colleges and universities are subject to the 2020 Title IX Regulations and Pennco Tech 's Sexual Misconduct and Sexual Harassment Policy as they existed prior to the adoption of the new regulations on August 1, 2024. Title IX is a federal law that prohibits discrimination on the basis of sex in any education program or activity that receives federal funding.

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The Pennco Tech Sexual Violence and Sexual Harassment Misconduct Policy (also known as ACT-16 for Pennsylvania)

This policy, dated March 18, 2025, supersedes any policies previously adopted and/or published in Campus handbooks, operational guides, or on the website.

Scope of This Policy

The Federal mandates established by Title IX and Act 16 reaffirm that students, employees, and third parties have the right to be free from discrimination based on their gender, sex, sexual orientation, and gender appearance/expression. All procedures regarding such incidences can be found herein.

This policy applies to all Pennco Tech active students, employees, and third-parties both on and off campus, as well as in cyberspace. Off-campus coverage of this policy includes incidents that occur on employee-led trips, internship sites, service-learning sites, and Pennco Tech-owned properties.

Any questions regarding this policy from employees/students of the Pennco Tech Community should be directed to the Title IX Coordinator;

Ms. Teresa Gallagher
TGallagher@penncotech.edu Direct dial – 267-554-7623Director of Human Resources 3815 Otter Street,
Bristol, PA 19007

AND

Any questions regarding this policy from students may also be directed to the Deputy Title IX Coordinators, the School Directors;

Blackwood Campus:
Mr. Gordon Ernst
gernst@penncotech.edu
Direct dial – 856-373-5593 School Director
99 Erial Road,
Blackwood, NJ 08012

Bristol Campus:
Mrs. Danielle J. Cattell
dcattell@penncotech.edu
Direct dial – 267-554-7613
School Director
3815 Otter Street,
Bristol, PA 19007

OR

U.S. Department of Education Office of Civil Rights
Lyndon Baines Johnson Department of Education Bldg., 400 Maryland Ave., SW,
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012
TDD: 877-521-2172
Email: ORC@ed.gov

SEXUAL VIOLENCE AND SEXUAL HARASSMENT MISCONDUCT POLICY

I. Summary

The term “sexual misconduct” is a broad term used to refer to all the prohibited sexual violence and sexual harassment behaviors under this policy. As used in this policy, sexual misconduct may also encompass criminal conduct under New Jersey/Pennsylvania and/or federal law. Additionally, sexual misconduct under this policy may result in civil and/or administrative legal consequences.

Definitions of Covered Conduct and Important Terms:

Complainant: The individual who experienced the alleged sex discrimination, sexual harassment, or sexual misconduct. In certain instances, such as where there is a danger to the Pennco Tech community and the individual who experienced the alleged conduct is unable or unwilling to file a complaint, Pennco Tech reserves the right to proceed with the complaint based on the relevant details of the situation even if the reporting party does not want to continue.

Consent: A knowing and voluntary agreement to engage in specific sexual activity at the time of the activity. In order to be valid, consent must be knowing, voluntary, active, present and ongoing. Consent is not present when an individual is incapacitated due to alcohol, drugs, or sleep, or otherwise without capacity to provide consent due to intellectual or other disability or other condition.
When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence of or impaired by the use of the drug. Alcohol and other drugs impact each individual differently.
Determining whether an individual is incapacitated requires an individualized determination. When determining whether a person has the capacity to provide consent, Pennco Tech will consider whether a sober, reasonable person in the same position knew or should have known that the other party could or could not consent to the sexual activity. When determining whether consent has been provided, all the circumstances of the relationship between the parties will be considered.

Coercion: Coercion is direct or implied threat of danger, hardship, or retribution sufficient to persuade a reasonable person to engage in sexual activity in which they otherwise would not engage or to which they otherwise would not submit. Coercion is different from seductive behavior based on the type of pressure someone uses to get another to engage in sexual activity. A person’s words or

conduct cannot amount to coercion unless they wrongfully impair the other's free will and ability to choose whether or not to engage in sexual activity. Coercion can include unreasonable and sustained pressure for sexual activity. When someone makes clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Intimate-Partner Violence – An act of violence or threatened act of violence by or against one person who is, or has been, involved in a sexual, dating, domestic, or other intimate relationship with another person. This includes:

1. Dating Violence – Violence, including but not limited to sexual or physical abuse, or the threat of such violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person. The existence of such a relationship will be determined based on the reporting party's statement and other relevant information, taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

2. Domestic Violence – Violence, including but not limited to sexual or physical abuse, or the threat of such violence, committed by a current or former spouse, or sexual or intimate partner; a person who is living as a spouse or who lived as a spouse; parents and children; other persons related by blood or marriage; or by someone with whom the person shares a child in common. Under the criminal laws of Pennsylvania certain offenses, including but not limited to, rape, aggravated assault, and stalking, can be deemed domestic violence depending on the relationship of the parties involved.

Incapacitation: A person may be unable to give consent due to incapacitation as a result of drug or alcohol use, use of medication, or disability status (for example, a person may be unable to communicate due to a mental or physical condition). A person who is passed out, asleep or unconscious is incapacitated and cannot consent to sexual activity. In evaluating whether a complainant was incapacitated due to the consumption of alcohol, Pennco Tech will consider the totality of the circumstances; including factors such as the presence of slurred speech, an unsteady gait/stumbling, unfocused eyes, and impaired memory.

Inducing Incapacitation: To provide alcohol or drugs to an individual, with or without that individual's knowledge, for the purpose of causing impairment or intoxication or taking advantage of that individual's impairment or incapacitation.

Intimidation: To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct but without displaying a weapon or subjecting the victim to actual physical attack.

Respondent: The individual accused of the alleged sex discrimination, sexual

harassment, or sexual misconduct.

Retaliation: Adverse conduct of which the institution is aware, where there is evidence of a causal connection between the conduct and a protected activity such as filing a Title IX complaint, participating in a Title IX investigation, or otherwise asserting rights under Title
IX. Retaliation includes, but is not limited to, ostracizing the person, pressuring the person to drop or not support the complaint or to provide false or misleading information, engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living or work environment, threatening, intimidating or coercing the person, or otherwise

discriminating against any person for exercising their rights or responsibilities under this policy.

Sexual Assault – This includes the following:

1. Sexual Penetration Without Consent - Any penetration of the mouth, sex organs, or anus of another person, however slight by an object or any part of the body, when consent is not present. This includes performing oral sex on another person when consent is not present.

2. Sexual Contact Without Consent - Knowingly touching or fondling a person's genitals, breasts, buttocks, or anus, or knowingly touching a person with one's own genitals or breasts, when consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch or fondles oneself or someone else.

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

Sex Discrimination: Sex discrimination occurs when persons are excluded from participation in, or denied the benefits of, any Pennco Tech program or activity because of their sex. Sex discrimination can include adverse treatment based on one's sex, as well as
conduct that meets the definitions of sexual harassment, sexual assault, and sexual violence, as set forth in this document. Sex discrimination also includes discrimination

on the basis of pregnancy and failure to conform to stereotypical notions of femininity and masculinity (i.e., gender stereotyping).

Sexual Exploitation: Taking sexual advantage of another person or violating the sexual privacy of another when consent is not present. This includes, but is not limited to, the following actions (including when they are done via electronic means, methods or devices):

1. Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person's consent;

2. Indecent exposure or inducing others to expose themselves when consent is not present;
3. Recording or distributing information, images or recordings of any person engaged

   in sexual or intimate activity in a private space without that person's consent.

4. Prostituting another individual;

5. Knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and

6. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

Sexual Harassment: Unwelcome conduct of a sexual nature where either or both of the following are present:

1. Quid pro quo: Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment or education, including participation in any Pennco Tech program and/or activity; or

2. Hostile Environment: Such conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from Pennco Tech's education or employment programs and/or activities. The existence of a hostile environment is to be judged both objectively, meaning a reasonable person would find the environment hostile and subjectively meaning the impacted individual felt the environment was hostile. A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile

environment, particularly if the harassment is physical.

Sexual Misconduct: This is an umbrella term that covers the types of conduct covered by this policy, including sex discrimination, sexual harassment, sexual assault, sexual violence, dating and domestic violence, and stalking.

Sexual Violence: Sexual violence is a particularly severe form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual may also be unable to give consent due to an intellectual or other disability.
Sexual violence includes acts such as rape, sexual assault (forcible and non-forcible), sexual battery and sexual coercion.

Stalking: Engaging in a course of conduct or repeatedly communicating and/or committing acts toward another person under circumstances that demonstrate or communicate intent:

1. to place the other person in reasonable fear of bodily injury; or
2. to cause substantial emotional distress to the other person.

A course of conduct is when a person 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, surveys, threatens, or communicates to or about a person in a prohibited way, or interferes with a person's property.

Stalking includes the concept of cyberstalking, in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

II. Policy

A. Title IX, VAWA and Nondiscrimination Statement

Pennco Tech prohibits any form of discrimination and harassment on the basis of sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity or expression, pregnancy, marital or family status, medical condition, genetic information, veteran status, or disability in any decision regarding admissions, employment, or participation in a Pennco Tech program or activity in accordance with the letter and spirit of federal, state, and local non- discrimination and equal opportunity laws, such as Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, The Age Discrimination in Employment Act, The Americans with Disabilities Act and ADA Amendments Act, The Equal Pay Act, and the Pennsylvania Human Relations Act.

Pennco Tech also complies with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, as amended by the Violence Against Women Act (VAWA). Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. VAWA imposes additional duties on universities and colleges to investigate and respond to reports of sexual assault, stalking, and dating or domestic violence, and to publish policies and procedures related to the way these reports are handled. Pennco Tech has designated the Title IX Coordinators, the Director of Human Resources and the appropriate School Director, to coordinate Pennco Tech's compliance with Title IX and VAWA and to respond to reports of violations. Pennco Tech has directed its School Directors to coordinate Pennco Tech's compliance with the Clery reporting related VAWA requirements. Pennco Tech will promptly and equitably respond to all reports of sexual misconduct in order to eliminate the misconduct, prevent its recurrence, and redress its effects on any individual or the community.

B. Scope of Policy

This policy applies to all on campus and off-campus conduct that is likely to have a substantial adverse effect on any member of the Pennco Tech community. There is no time limit for reporting allegations of sexual misconduct; however, Pennco Tech strongly encourages the prompt reporting of sexual misconduct to allow Pennco Tech to respond promptly and effectively. If the reported respondent is not a member of the Pennco Tech community or is no longer associated with Pennco Tech at the time of the report or at the time a resolution process is initiated, Pennco Tech may be unable to investigate or take disciplinary action.

Please see the **Reporting Sexual Misconduct** section below to make a report of misconduct, discrimination and/or harassment, or to file a complaint.

C. Statement on Privacy and Confidentiality

Pennco Tech is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. Every effort will be made to protect the privacy interests of all individuals involved. Privacy, confidentiality and privilege have distinct meanings under this policy.
Privacy generally means that information related to a report of sexual misconduct will only be shared with a limited circle of individuals, including individuals who "need to know" in order to assist in the review, investigation, or resolution of the report or to deliver resources or support services. While not bound by confidentiality or privilege, these individuals will be discreet and respect the privacy of all individuals involved in the process. All participants in an investigation of sexual misconduct, including advisors and witnesses, will be informed that privacy helps enhance the integrity of the investigation and protect the privacy interests of the parties and will be asked to keep any information learned in an investigation meeting or hearing confidential, to the extent consistent with applicable law, except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others or as otherwise required by law.

Pennco Tech will respect the reporting party's expectations of privacy **to the extent permissible by law** while still ensuring compliance with other reporting obligations. For example, complaints involving minors are subject to mandatory reporting requirements.

Pennco Tech will generally respect a complainant's choice whether to report an incident to
local law enforcement or initiate Pennco Tech's sexual misconduct resolution process, unless Pennco Tech determines that there is an overriding interest with respect to the safety or welfare of the Pennco Tech community. Where a report involves suspected abuse of a child (an individual under the age of 18 at the time of the incident(s) as reported), all Pennco Tech employees and volunteers are required to notify the Director of Human Resources and the ChildLine run by the Pennsylvania Department of Human Services @ 1-800-932-0313. All

other members of the Pennco Tech community are strongly encouraged to report suspected child abuse to law enforcement or the ChildLine.

Confidentiality has a different meaning than privacy. Individuals who wish to speak with someone in confidence about an experience of sexual misconduct may contact one of the following off-campus resources. Pennco Tech does not employ

practicing licensed counselors or pastoral counselors, and therefore, does not have any confidential reporting resources on campus.

Non-Campus Resources available for confidentiality are:

Rape, Abuse, and Incest National Network: www.rainn.org National Sexual Assault Hotline: 1-800-656-HOPE
The National Domestic Violence Hotline: 1-800-799-7233 Love is Respect: 1-866-331-9474; text "loveis" to 22522 PA-Bucks County Network of Victim Assistance (NOVA):
24 HOUR HOTLINE: 1-800-675-6900 or www.novabucks.org NJ-Coalition Against Sexual Assault HOTLINE: 1-800-601-7200

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

You can learn more about the Office on Violence Against Women Act by visiting the United States Department of Justice web site at: https://www.justice.gov/ovw/about-office

Pennco Tech may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions.

D. Prohibited Conduct

Pennco Tech prohibits the following forms of conduct:

1. Sexual Assault including Sexual Penetration Without Consent, Sexual Contact Without Consent and Statutory Sexual Assault
2. Sexual Harassment
3. Sexual Exploitation
4. Intimate-Partner Violence, including Dating Violence and Domestic Violence
5. Stalking
6. Retaliation

This prohibited conduct can affect all genders, gender identities and sexual

orientations.

Some of these prohibited forms of conduct may also be crimes under Pennsylvania or federal law.

E. Free Expression and Academic Freedom

Pennco Tech is firmly committed to free expression and academic freedom and to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community. Sexual misconduct, including retaliation, against members of Pennco Tech are not protected expression nor the proper exercise of academic freedom. Pennco Tech will consider principles of free expression and academic freedom in the investigation of reports of sexual misconduct or retaliation that involve an individual's statements or speech.

F. Alcohol and Drug Use Amnesty

The health and safety of every student and employee at Pennco Tech is of utmost importance. Pennco Tech recognizes that students/employees who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Pennco Tech strongly encourages students/employees to report incidents of sexual misconduct. A witness to or individual who experience sexual misconduct, acting in good faith, who discloses any incident of sexual misconduct to Pennco Tech officials or law enforcement will not be sanctioned under Pennco Tech's code of conduct for violations of alcohol and/or drug use policies occurring at or near the time of the incident(s) of sexual harassment or sexual violence. Pennco Tech may request the individual attend an approved alcohol or drug education program and without assessing any charges for such program. This amnesty provision also applies to student groups making a report of sexual misconduct. Amnesty does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

III. Reporting Sexual Misconduct

A. Reporting Options

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

A person who has experienced sexual misconduct under this policy, or a person

who witnesses sexual misconduct under this policy, has the right to simultaneously file a complaint with Pennco Tech and to pursue a criminal complaint with law enforcement. Victims and witnesses of sexual misconduct have the right to be assisted by Pennco Tech in notifying law enforcement authorities of sexual misconduct or they can decline to notify such authorities. Pennco Tech may, however, have a statutory reporting obligation when it

becomes aware of certain factual allegations. Parties may also have options to file civil actions in court or with administrative agencies.

Pennco Tech has designated the Title IX Coordinator to oversee complaints of sexual misconduct at Pennco Tech. An individual who has experienced sexual misconduct has the right to choose whether to report the incident to Pennco Tech's Director of Human Resources for investigation. These officials are trained to work with individuals who report sexual misconduct and have knowledge about resources and services, both on and off campus, including the availability of supportive measures.

Please call or email Pennco Tech's Title IX Coordinator to set up a meeting if you have a complaint involving sexual misconduct. You can also call for general information. The Title IX Coordinator/designee, in consultation with others (as necessary), will conduct an initial assessment of the conduct, the reporting party's desired course of action, and the necessity for any supportive or interim measures to protect the safety of the complainant or the community. The goal is to eliminate any hostile environment. If a report of misconduct discloses a serious or immediate threat to the campus community, Pennco Tech will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the complainant.

Please Note: Title IX Coordinators are not a confidential source of support. While they will address your complaint with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. For more information regarding confidential resources, please contact the Director of Human Resources at: tgallagher@penncotech.edu

Please Also Note: Making a report is different from filing a complaint. A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator/designee by any responsible employee or reporting person. A report may be accompanied by a request for (1) supportive or interim measures; (2) no further action; (3) a request to initiate an informal resolution process; and/or (4) the initiation of the formal complaint process.
Filing a complaint initiates the Pennco Tech formal disciplinary processes see Sexual Misconduct Resolution Process on page 17.

B. Electronic and Anonymous Reporting

You may also file a complaint about sexual misconduct using the appropriate links below. While anonymous complaints are accepted, Pennco Tech's ability to address misconduct reported anonymously is significantly limited.
Individuals may use this https://www.pennco.edu to electronically file a report of sexual misconduct anonymously with Pennco Tech.
Individuals may also file a report electronically by email to: Reporting@penncotech.edu
An immediate auto-response email with information about resources and options will be sent in response to reports filed by email.

C. Other Pennco Tech Reporting Options:

Pennco Tech does NOT use any third-party service for reporting complaints, including anonymous complaints, by phone or online.

D. Criminal Reporting Options

Pennco Tech does NOT employ its own Campus Police. You should immediately report any sexual misconduct that also constitutes criminal conduct to the civil authorities for the Campus you attend listed below regardless of whether the individual who is making the report chooses to pursue criminal charges.

Local law enforcement information: Always call 911for an immediate response

Blackwood Campus local Police: Gloucester Township Police 856-

228-4500; Bristol Campus local Police: Bristol Township Police 215-

785-4040

State Police information:

Blackwood Campus; Bellmawr State Police Barracks: 856-

933-0550 Bristol Campus: Bensalem State Police Barracks:

215-942-3900

A complainant may seek resolution through Pennco Tech's informal or formal resolution process. A complainant may also seek to initiate a criminal complaint, independent of or parallel with any resolution process of Pennco Tech. Pennco Tech's policy, definitions, and burden of proof may differ from New Jersey/Pennsylvania criminal law. Neither law enforcement's decision whether to prosecute, nor the outcome of any criminal prosecution, is determinative of whether sexual misconduct has occurred under this policy. In cases where there is a simultaneous law enforcement investigation, there may

be circumstances when Pennco Tech may need to temporarily delay its investigation while law enforcement gathers evidence. However, Pennco Tech will generally proceed with its investigation and resolution of a complaint even during the time of a pending law enforcement investigation.

E. External Reporting Options

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

A person from Pennsylvania may also file a complaint with the Pennsylvania Human Relations Commission by calling 717-787-9780 for the Harrisburg Regional Office;

or 215-560-2496 for the Philadelphia Regional Office or visiting https://www.phrc.pa.gov/Pages/default.aspx

A person from New Jersey may also file a complaint with the New Jersey Human Relations Council in Trenton, NJ by calling 609-292-4925 or by visiting https://nj.gov/oag/dcj/hrc/

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

F. Reporting Obligations of Pennco Tech

All Pennco Tech officials, employees (including student employees), and volunteers are considered “responsible employees” under Title IX and are obligated to report incidents of sexual misconduct of which they become aware to the Title IX Coordinator/designee, unless they serve in a role that makes such reports privileged.

Assessment and Timely Warnings

The Title IX Coordinator/designee in consultation with the Title IX assessment team and others (as necessary) will conduct an initial assessment of the conduct, the reporting party’s desired course of action, and the necessity for any interim measures or services to protect the safety of the complainant or the community. The goal is to eliminate any hostile environment. If a report of misconduct discloses a serious or immediate threat to the campus community, Pennco Tech will issue a timely notification to the community to protect the health or safety of the community.

The timely notification will not include any identifying information about the complainant.

IV. Sexual Misconduct Resolution Process

A. Participant Roles

1. A **complainant** is the person who has been impacted by an alleged policy violation and has chosen to participate in the resolution process.

2. A **respondent** is the person who is alleged to have violated Pennco Tech policy.

3. **Parties** is a term that refers to the complainant and the respondent collectively.

4. A **witness** is a person who has knowledge related to specific aspects of a case and may have reported such aspects to the institution.

5. An **advisor** is a support person who may be present to provide support to a complainant or respondent throughout an investigation and/or hearing provided the choice of advisor does not unduly delay the process. Advisors may not speak, write, or otherwise communicate with investigators, conduct administrators, hearing panel members, or appeal reviewers on behalf of the party being advised. Each party is responsible for coordinating and scheduling with their choice of advisor.

All participants have the responsibility to be truthful with the information they share at all stages of the process. Any individual who knowingly or intentionally provides false information as part of a report or investigation under this policy may be subject to discipline. This provision does not apply to a good faith report that is not substantiated or proven by a preponderance of the evidence.

B. Conflict of Interest

Parties have the opportunity to raise the issue of a potential conflict of interest within two (2) days of being advised of the identity of the investigator, panel member, or appeal reviewer. The Title IX Coordinator/designee will determine whether a conflict of interest exists. No investigator, panelist, or appeal reviewer will make findings or determinations in a case in which they have a conflict of interest.

C. Burden of Proof

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

D. Standard of Proof

Pennco Tech uses the **preponderance of the evidence** standard in investigations of complaints alleging sexual misconduct and any related violations. This means that the investigation determines whether it is more likely than not that a violation of the policy occurred.

E. Timeline for Resolution

Pennco Tech will resolve all cases in a prompt and timely manner, however, the timeline will vary based on the circumstances of the case, including breaks in the academic calendar,

availability of the parties and witnesses, scope of the investigation, need for interim actions, and unforeseen or exigent circumstances. The parties will be periodically updated on the status of their case.

F. Title IX Outreach

Upon receipt of a report of sexual misconduct, the Title IX coordinator/designee will provide resources and support information by contacting the potential complainant and offering an initial meeting between the reporting party and the Title IX coordinator/designee. The initial meeting is optional and the reporting party may decline. The purpose of the initial meeting is for the Title IX/designee to gain a basic understanding of the nature and circumstances of the report and provided information about resources, supportive measures, and resolution options to the reporting party.

G. Initial Inquiry

Pennco Tech will conduct a preliminary inquiry to determine if the allegations, if true, would rise to the level of a violation of Pennco Tech policy. The possible

next steps include the following: (1) A decision to close the case when insufficient evidence exists to move forward or because the allegation, even if proven, would not violate Pennco Tech policy; (2) Informal Action (see below); or (3) Formal Resolution (see below).

H. Interim and Supportive Measures

When Pennco Tech becomes aware of an allegation of sexual misconduct and the complainant or other affected parties, including the respondent, request interim or supportive measures, Pennco Tech will take appropriate supportive and interim measures to protect affected parties, to assist the parties, and to protect against retaliation. Pennco Tech may also take interim measures to protect the Pennco Tech community at large.

1. Supportive Measures. The following are examples, but not an exhaustive list, of supportive measures:
    a. Making appropriate changes to academic programs, including changes in class schedule, accommodations to permit the affected party to take an incomplete or drop a course or courses without penalty, permitting the affected party to attend a class via skype or other alternative means, providing an academic tutor, or extending deadlines for assignments;
    b. Making appropriate changes to on-campus residential housing situations or aiding in finding alternate housing;
    c. Changing an employee's work assignment or schedule;
    d. Providing the affected party with an escort to and from class or campus work location;
    e. Arranging appropriate transportation services to ensure safety;
    f. Providing information on available counseling services through the counseling center or other appropriate office, or referral to an off- campus agency;
    g. Assisting the affected party in obtaining medical and other services, including access to rape crisis centers;
    h. Assistance with filing a criminal complaint and/or seeking an order of protection; and/or
    i. Enforcing a protection from abuse order.

Supportive measures will be individualized and appropriate based on the information available, making every effort to avoid depriving any student of their education or impacting employment. The measures needed by each party may change over time, and parties should communicate with Pennco Tech throughout the resolution process to ensure the supportive measures are effective.

2. Interim Measures

   a. No Contact Orders - When respondent is a student, employee or volunteer of the institution, the complainant has the right to request Pennco Tech-issued "no contact order" under which continued intentional contact with the complainant would violate this policy. No contact orders may be issued for both the complainant and the respondent, as well as other individuals as appropriate.

   b. Interim Suspension - In exceptional circumstances where it is determined that a respondent is a continuing threat to the health and safety of the community, Pennco Tech may seek an emergency interim suspension of a student or take similar emergency measures against an employee, consistent with applicable Pennco Tech policy. For students who are given an interim suspension, Pennco Tech will convene a hearing within 10 working days, unless extenuating circumstances warrant an extension, in which case a hearing shall be provided at the earliest possible date.

   c. Orders of protection: If a party has obtained an ex parte order of protection, full order of protection, or any other restraining order or no contact order against another from a criminal, civil or tribal court, the order should be provided to the Title IX Coordinator, Deputy Title IX Coordinator, or designee. Pennco Tech will take all reasonable and legal action to implement such an order. If an order is violated, local law enforcement can also be contacted for assistance.

3. Process for Review of Interim Measures

   a. For students who are given an interim suspension, Pennco Tech will convene a hearing within 10 working days, unless extenuating circumstances warrant an extension, in which case a hearing shall be provided at the earliest possible date.

   b. For interim measures involving employees, Pennco Tech will follow applicable requirements in Pennco Tech policy.

Pennco Tech will maintain as confidential any interim measures provided, to the extent that maintaining such confidentiality would not impair Pennco Tech's ability to implement the measures.

I. Informal Resolution

Informal resolution involves a mutual agreement by the parties to resolve the matter by mutual agreement. Informal resolution may not be used when formal resolution is desired by a reporting party or where the Title IX Coordinator/designee has determined that Pennco Tech needs to proceed with an investigation. Informal resolution may take place at any time prior to a decision being issued in a hearing or a respondent taking responsibility. The informal resolution process will be conducted by the Title IX Coordinator/designee. Both the complainant and the respondent have the right to end the informal resolution process at any time. Any informal resolution must be acceptable to the complainant, the respondent, and the Title IX Coordinator/designee.

If a resolution is reached, the complainant and the respondent shall be notified in writing, and the Title IX Coordinator/designee will confer with appropriate parties to memorialize the agreed upon resolution and any consequences for non-compliance in a memorandum. This memorandum will be included in the respondent's student record. If no agreement is reached within a reasonable time, the Title IX Coordinator /designee shall proceed with the formal resolution process.

Informal resolution does not result in findings related to responsibility.

J. Formal Resolution

a. Notification to Respondent - If a case is referred for formal resolution, the respondent will be notified of the alleged misconduct and given an opportunity to respond. The notification will include the allegations, identities of the parties involved, the specific section(s) of Pennco Tech policy allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the incident (if known).

   This notice will be given before any initial interview. Pennco Tech may modify the list of policies allegedly violated based on additional information learned during investigation.

b. Acceptance of Responsibility - Prior to the conclusion of a sexual misconduct investigation, the respondent may elect to take responsibility for the prohibited conduct by contacting the Title IX Coordinator/designee in writing. The Title IX Coordinator/designee will issue a brief outcome determination summarizing the allegations and stating the respondent has accepted responsibility, and refer the matter to the appropriate office for sanctioning. Following the determination of sanctions, parties may appeal the sanctions but not the finding(s) of responsibility.

c. Investigation - For investigations of respondents who are employees of Pennco Tech, Pennco Tech will follow applicable requirements in its policy. For investigations of respondents who are students Pennco Tech will follow applicable requirements in Pennco Tech policy.

d. Hearing - For hearings for respondents who are employees Pennco Tech will follow applicable requirements in Pennco Tech policy. For hearings for respondents who are students Pennco Tech will follow applicable requirements in Pennco Tech policy.

e. Sanctioning - For sanctions for respondents who are employees Pennco Tech will follow applicable requirements in Pennco Tech policy. For sanctions for respondents who are students Pennco Tech will follow applicable requirements in Pennco Tech policy.

K. Appeal

The complainant or respondent may appeal the hearing outcome and/or sanction(s).

For appeals by parties who are employees Pennco Tech will follow applicable requirements in Pennco Tech policy. For appeals by parties who are students Pennco Tech will follow applicable requirements in Pennco Tech policy.

In the event sanctions were imposed, it shall be in the discretion of the Title IX Coordinator/designee and the sanctioning office whether the sanctions shall be implemented or stayed pending resolution of an appeal.

The limited grounds for appeal are as follows:

- New information that could affect the outcome of the matter and was not reasonably available through the exercise of due diligence at the time of the hearing below;
- A deviation from Pennco Tech policy or procedures that materially affected the hearing outcome or sanctions; and
- The sanction is too harsh or too lenient.

Appeals must be made to the Title IX Coordinator and/or Deputy Title IX Coordinator and be filed within 7 calendar days of the date that written notice of the outcome was provided.

Pennco Tech will decide the appeal promptly but generally within 30 calendar days and provide the respondent and complainant with concurrent/simultaneous written notice of the final determination within 7 calendar days of making the final determination, including any changes to the previous determination and/or the sanctions imposed. The appeal decision is final and not subject to further appeal.

V. Rights/Responsibilities

A. Reports and complaints have different meanings. An individual has a right to make a report of sexual misconduct to Pennco Tech, which may be accompanied by request for supportive measures. An individual also has a right to make a complaint of sexual misconduct, which is a request to initiate Pennco Tech's informal resolution process or a formal disciplinary process, which includes an investigation and may proceed to a formal hearing.

B. Prior to the conclusion of a sexual misconduct investigation, the reporting party may request to withdraw the complaint by contacting the Title IX Coordinator/designee in writing. He or she will determine whether to close the case or conclude the investigation without the complainant's continued participation.

C. An individual also has the right to report sexual misconduct to law enforcement, separate and apart from any report or complaint made to Pennco Tech.

D. At the time a report is made, the reporting party does not have to decide whether to file a complaint or make a report of sexual misconduct to law enforcement.

E. An affected party has the right to request supportive measures from Pennco Tech, which may include interim contact restrictions.

F. The reporting party has the right to seek medical treatment to address physical and mental health and to preserve evidence.

G. A report may become a formal complaint, either initiated by the reporting party

H. or Pennco Tech depending on the outcome of the Title IX assessment. To file a complaint, please contact the Title IX Coordinator/designee.

VI. Prevention and Awareness Programs

Pennco Tech is committed to having in place sexual misconduct, including dating violence, domestic violence and stalking, prevention and awareness programs for students and employees. Pennco Tech implements prevention and awareness programming during new student and new employee orientation. Informational prevention and awareness materials are available on an on- going basis**.**

VII. Prohibition against Retaliation

Retaliation in any form (including acts of intimidation or harassment) against any person who makes a Title IX report, witnesses or experiences harassment, or asserts

rights under Title IX will also not be tolerated. Reports of retaliatory conduct should be made to the Title IX Coordinator and/or Deputy Title IX Coordinator using the contact information set forth above.

VIII. False Reporting

Allegations of discrimination and harassment are extremely serious and must be made honestly and in good faith. Knowingly providing false information to a school official may result in disciplinary action up to and including termination for employees, and suspension or termination for students.

IX. Related Information

Staff Training:

Pennco Tech's Title IX Coordinator, Teresa Gallagher

Training from Clery Center

Clery Center's Institutional Policies Training: Integrating Title IX and Clery Act Requirements training. A recording of the training, can be found here: https://vimeo.com/724484963/6c85ce2451

Jeanne Clery Act Certificate of training: View Training Certificate

Pennco Tech's Deputy Title IX Coordinators; Blackwood Campus - Gordon Ernst Bristol Campus – Danielle J Cattell

Training from Thompson Coburn LLP

Module 1 – Fundamentals of the Law: http://content.thompsoncoburn.com/video/Module-1- Fundamentals-of-the-Law.mp4

Module 2 – Formal Complaints: http://content.thompsoncoburn.com/video/Module-2-Formal- Complaints.mp4

Module 3 – Investigations & Informal Resolutions: http://content.thompsoncoburn.com/video/Module-3-Investigations-and-Informal- Resolutions.mp4

Module 4 – Hearings: http://content.thompsoncoburn.com/video/Module-4-Hearings.mp4

Module 5 – Determinations: http://content.thompsoncoburn.com/video/Module-5- Determinations.mp4

Module 6 – Appeals: http://content.thompsoncoburn.com/video/Module-6-Appeals.mp4

Cleary Center Know More, Do More: Building your Team: https://vimeo.com/745463308/dedf02b5de

X. Revision History:

Original Document July 2018
Revised Document June 2020 – to meet new PA DOE requirements Revised Document August 2020 – to meet new US DOE requirements Revised Document September 2021 – to update staff training
Revised Document September 2022 – to update staff training Revised Document September 2023 – to update staff training Revised Document September 2024 – to update staff training
Revised 2020 Document March 2025 to comply with January 9,2025 federal court ruling.

XI. Reports and Record Keeping

Exhibit 1
Actual Knowledge Report
(to be completed by the Title IX Coordinator)

1. Date: _____

2. Name of Reporter: _____

3. Name of Complainant: _____

4. Name of Respondent: _____

5. Summary of Report: _____

_____

_____

Attached pages? □ No □ Yes — Number? ___

6. Was the report discussed with Complainant? Yes □ No □ Date: _____

7. Was the Complainant:

   Informed of available Supportive Measures, with or without a formal complaint? Yes □ No □

   Given an explanation of the process for filing a formal complaint? Yes □ No □

8. Were Supportive Measures requested? Yes □ No □

9. Will Supportive Measures be provided? Yes □ No □. If yes, describe: _____

_____

10. If an answer under 6 through 9 above is "No," fully explain why (attach pages if needed):

_____

_____

Attached pages? □ No □ Yes — Number? ___

11. Formal Complaint filed by/for Complainant? Yes □ No □

12. Formal Complaint filed by Title IX Coordinator? Yes □ No □

_____ _____
Signature of Title IX Coordinator Date

Exhibit 2
Sexual Harassment (Title IX) Complaint Form

Instructions for filling out this form: If you believe that you have been the victim of sexual harassment, please fill out this form and submit it by hand delivery, electronic mail, or U.S. mail to the School's Title IX Coordinator. **You are not required to use this form and may file a complaint by any other reasonable means, orally or in writing.** If the victim of sexual harassment is a minor, the form must be completed and signed by a parent or guardian. A person believed to be a victim of sexual harassment is the "complainant."

If you are reporting sexual harassment you witnessed or know of against another person, please report this to the School's Title IX Coordinator. **Do not use this form**. Please identify for the Title IX Coordinator the victim, the alleged perpetrator; the date, time and place of the conduct; and other factual details. **Under federal law, only an alleged victim (for themselves or, for a minor, through a parent or guardian) or the Title IX Coordinator has the right to file a complaint.**

Please print or type when completing this form**. If needed, attach additional sheets and indicate the number of additional pages below.**

Name of complainant: _____

Parent or guardian (if applicable) _____

Address: _____

Telephone number: _____

Email address: _____

I am an/a: ☐ Employee ☐ Student ☐ Parent/Guardian ☐ Other (_____)

You have the right to be represented by an advisor (who may be an attorney, advocate or someone else) during the complaint process. If you have an advisor, please provide contact information. You may provide this information at a later time.

Name: _____

Address: _____

Telephone number: _____

Email address: _____

A person alleged to have committed sexual harassment is called the “respondent.” Please identify the respondent(s) and indicate their relationship to the School.

_____

□ Employee □ Student □ Parent/Guardian □ Other
(_____)

Please describe the facts and circumstances giving rise to this complaint.

_____

_____

_____

_____

When and where did these events occur? Provide dates, times, and locations, if possible.

_____

Please provide the names of anyone else you believe is a victim of such conduct:

_____

_____

Please provide the names and contact information of anyone who may have witnessed the alleged conduct.

_____

_____

_____

If you have reported this to another person, please state to whom you reported the behavior and provide their contact information (if known).

_____

_____

If you reported to a School employee, please state when, to whom, and what response you received. Please note such a report was not required.

_____

_____

_____

Please list below any evidence that you believe is relevant. This could include audio or visual media, physical objects, online materials, text messages, voicemail messages, screen captures, emails, or any other item. Please include any information in the possession of the School or the Respondent that may be helpful (such as emails, pictures, or video).

Is there any other information you believe would be helpful? For example, if this conduct constituted harassment or misconduct on some other grounds, you may explain that here.

Please explain how this conduct has impacted you. This includes any injuries as well as impacts on your ability to access or benefit from the School's education program or activities or from your employment.

Please describe the outcome or remedy you seek.

Please provide below your physical or digital signature.

Signature: _____

Name (printed): _____

Check one: ☐ Complainant ☐ Parent/Guardian ☐ Title IX Coordinator

Date: _____

Notice to Complainant: This document is a legal record requesting a formal investigation. Please keep a copy of this completed form and any supporting documentation for your records.

If your complaint is found not to support a claim of sexual harassment, but would be proper under any other School policy, the School will notify you and proceed to consider your complaint under the proper policy.

Submitting knowingly false statements or evidence is a violation of School policy and will result in disciplinary consequences. Such consequences are not "retaliation." Mere disagreement between the parties, or between a party and a school official investigating or deciding this matter does not, by itself, demonstrate knowing submission of false evidence.

The Investigator will create an investigative report that fairly summarizes relevant evidence. The Parties will have an opportunity to submit relevant questions. The Decision Maker will prepare a decision regarding responsibility.

Please contact me with any questions or concerns.

/s/ Title IX Coordinator

Exhibit 4
Notice to Parties Concerning Determination of Responsibility

[This notice is to accompany the transmission of, or be incorporated into, the determination of responsibility to the Complainant and Respondent. The form given here is of a cover letter.]

[School Letterhead]

[Date]

[Addressee]

Please find attached the determination of responsibility in this matter. This determination can be appealed on one or more of the following three grounds:

- You believe a procedural irregularity affected the outcome of the matter;
- You have new evidence not available as of the date of this decision that could have affected the outcome of this matter; or
- You believe either I was biased, or the Investigator was biased, against you or biased against all persons in your position (that is, all complainants or all respondents).

If you wish to appeal, please send me a notice identifying the ground(s) on which you are appealing. An optional form of notice of appeal is provided in Exhibit 5. If an appeal is filed, I will forward your notice of appeal to an Appeals Panel formed under the School's sexual harassment policy and provide you with a further notice of details of that process.

/s/ [Decision Maker]

Exhibit 5
Notice of Appeal

[This illustrates one proper form for filing a notice of appeal. This may be used by a Complainant in response to a summary dismissal or by a Complainant or Respondent in response to a determination of responsibility.]

[Date]
From: [Name and Contact information of party filing the appeal]
To: [Name, Title and Contact information of Decision Maker]
To Whom it May Concern:
I am appealing the (check one) □ Summary Dismissal □ Determination of Responsibility in this matter dated [date]. I believe (check appropriate boxes and summarize details, if desired):

□ A procedural irregularity affected the outcome of the matter. Describe (optional):
_____

_____

□ I have new evidence not available as of the date of this decision that could have affected the outcome of this matter. Describe (optional): _____

_____

_____

□ The (check as appropriate □ Investigator or □ Decision Maker was biased against me or biased against all persons in my position. Describe (optional):
_____

_____

_____

/s/ [Complainant or Respondent

Record Keeping

Consistent with Title IX regulations, the Pennco will maintain for a period of seven (7) years all records of:

- Whether any actions, including any Supportive Measures, were taken in response to a report or formal complaint of sexual harassment, including the basis for those actions and proof that the actions were implemented;
- Each sexual harassment investigation including any Responsibility Determination, Live Hearing records or transcripts, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, Investigators, Decision Makers, and other persons who facilitate the Grievance Process, Appeals, or the informal resolution process.