



**PENNCO  
TECH  
TRADE SCHOOL**

**Title IX  
Sexual Harassment and Anti -Discrimination Policy 2024**

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## **I. INTRODUCTION**

Pennco Tech is committed to maintaining an academic and workplace environment free from all forms of unlawful sexual, sex-based and gender-based harassment, discrimination and retaliation. Pennco Tech adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education. Pennco Tech does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of race, creed, D, religion, disability, veteran status, gender, age, marital status, sex, sexual orientation, gender identity or expression, pregnancy, genetic information, citizenship, ethnic or national origin, or any other protected category under applicable local, state, or federal law

## **TITLE IX STATEMENT**

The following Title IX Sexual Harassment Anti-Discrimination Policy (the “Policy”) outlines Pennco Tech’s efforts to comply with Title IX of the Education Amendments of 1972, as amended (“Title IX”), which prohibits discrimination (including sexual harassment and sexual violence) based on sex in Pennco Tech’s educational “Programs and Activities,” as such term is defined below, as well as retaliation for asserting or otherwise participating in claims of sex discrimination. Pennco Tech’s Executive Director of Human Resources/Title IX Coordinator coordinates Pennco Tech’s compliance with Title IX and other applicable laws prohibiting sex and gender-based harassment, discrimination and retaliation. Each individual is available to any student and employee, including faculty and student workers, current and prospective students and employees, who may be seeking additional, support, or wishing to file a report or complaint related to prohibited conduct under this Policy.

**Title IX Coordinator Executive Director of Human Resources**  
**Teresa Gallagher**  
**3815 Otter Street**  
**Bristol, PA 19007**  
[tgallagher@penncotech.edu](mailto:tgallagher@penncotech.edu)  
**Direct dial- \*267-554-7623**

**Deputy Title IX Coordinator  
Bristol Campus School Director  
Danielle Cattell  
3815 Otter Street  
Bristol, Pa 19907  
[dcattell@pencotech.edu](mailto:dcattell@pencotech.edu)  
Direct dial \*267-554-7613**

**Deputy Title IX Coordinator  
Blackwood Campus School Director  
Gordon Ernst  
99 Erial Road  
Blackwood, NJ 08012  
[gernst@penncotech.edu](mailto:gernst@penncotech.edu)  
Direct Dial \*856-373-5593**

Pennco Tech will respond promptly and effectively to any and all reports alleging violation(s) of this Policy, and will take appropriate action to prevent, correct and if necessary, discipline individuals who violate this Policy.

A person may also file a complaint with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by visiting the [U.S. Department of Education's website](#) or calling 800-421-3481.

## SCOPE OF POLICY

**This Policy governs Pennco Tech’s procedures and protocols for responding to incidents of sexual, sex-based and gender-based harassment, discrimination, or retaliation in both employment and access to educational opportunities occurring within Pennco Tech’s Program or Activity,” as such term is defined herein. The scope of persons subject to this Policy are active students, employees, and third parties, both on and off campus 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.**

**These persons are all considered members of the campus community and are entitled to Pennco Tech’s response procedures as set forth herein.**

Non-members of the campus community who engage in discriminatory actions within a Pennco Tech “Program or Activity” are not under the jurisdiction of this Policy, but can be subject to actions that limit their access and/or involvement with Pennco Tech as the result of their misconduct. All vendors and third-party contractors serving Pennco Tech are subject to the policies and procedures of their employers.

A Pennco Tech “Program or Activity” means on the campus or on property owned or controlled by Pennco Tech, at Pennco Tech-sponsored events, and other circumstances over which Pennco Tech exercises substantial control. The Policy may also apply to online behaviors when the Title IX Coordinator determines that the conduct affects a substantial Pennco Tech interest. Regardless of where the conduct prohibited by this Policy occurred, Pennco Tech will address all allegations to determine whether it occurred in the context of its employment or educational Program or Activity and/or has continuing effects on such Programs or Activities. A substantial Pennco Tech interest includes:

- a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b) Any situation where it appears that the “Respondent” (a term is defined herein) may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or

achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or

- d) Any situation that is detrimental to the educational interests of Pennco Tech.

If the “Complainant” (as such term is defined herein) is unknown or is not a member of the Pennco Tech community, the Title IX Coordinator will make reasonable efforts to identify the Complainant for purposes of identifying appropriate campus and local resources and “Supportive Measures,” such as those described in this Policy. This may include, when criminal behavior is alleged, contacting local law enforcement if the individual would like to file a police report. In addition, Pennco Tech may take other actions as appropriate to protect the Complainant from such third parties, such as barring them from Pennco Tech property and/or events.

All information regarding prevention awareness programs and bystander intervention for all incoming and returning students as well as new employees can be found on the Pennco Tech website at: [www.penncotech.edu](http://www.penncotech.edu)

All references to Title IX Coordinator throughout these policies include the Coordinator’s designees.

## **LAWS REGARDING DISCRIMINATION AND SEXUAL HARASSMENT**

Pennco Tech abides by all applicable federal, state and local laws that prohibit unlawful discrimination or harassment on the basis of race, creed, color, religion, disability, veteran status, gender, age, marital status, sex, sexual orientation, gender identity or expression, pregnancy, genetic information, citizenship, ethnic or national origin, or any other protected category under applicable local, state, or federal law, in any educational or employment program, policy or practice of Pennco Tech. By way of example, and without limitation, Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex and national origin in employment practices. Title IX of the 1972 Education Amendments prohibits discrimination on the basis of Pennco Tech's education Programs or Activities. Sexual harassment is a form of sex discrimination and is therefore prohibited under Title IX. The Federal courts, and the Equal Employment Opportunity Commission (EEOC) in its April 1980 Sexual Harassment Guidelines, have ruled that the sexual harassment of employees constitutes unlawful sex discrimination and is a violation of Title VII. Discrimination and sexual harassment are violations of federal and state law as well as serious violations of Pennco Tech's policy and will not be tolerated.

## **POLICY AGAINST RETALIATION**

Pennco Tech prohibits unlawful retaliation against anyone who has reported unlawful sexual, sex-based and gender-based harassment, discrimination, or retaliation, as well as those who support any individual making such complaint or who provide information or participate in an investigation into any such good faith complaint or report. Fear of retaliation should not be a barrier to reporting incidents of sexual harassment or discrimination, or to the making of any good faith complaints whatsoever. Retaliation is a serious violation of Pennco Tech policy and will not be tolerated. Retaliation is, in addition to the underlying conduct about which a Complainant has complained, grounds for disciplinary action. Anyone who experiences conduct that they believe to be retaliation, should immediately report it to the Title IX Coordinator at 267-554-7623.

It shall not be retaliation for a Respondent to provide information and evidence, or to dispute the allegations to Investigators and Decision Makers in defense of allegations of sexual harassment, discrimination or retaliation under this Policy.

## **PREVENTION AND EDUCATION**

Pennco Tech is committed to preventing sexual harassment and educating its faculty, staff, and students about sexual harassment. The Title IX Coordinator, and Deputy Title IX Coordinators, and other faculty and staff receive annual training regarding Pennco Tech's Sexual Harassment Anti-Discrimination Response Policy. Similarly, new students will receive sexual harassment information through presentations given during new student orientation, and will have access to this Policy at all times.

## **DEFINITIONS**

### **Definitions Relevant to Sex Based Harassment**

***Sexual Harassment:*** Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of Pennco Tech's conditioning the provision of an aid, benefit, or service of Pennco Tech on an individual's participation in unwelcome sexual conduct (otherwise known as "quid pro quo harassment");
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Pennco Tech's education Program or Activity; or
- (3) Any instance of sexual assault, as defined by the Clery Act, dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA), which definitions are included herein.

***Hostile Environment:*** A "hostile environment" exists when sex-based harassment is sufficiently serious to deny or limit a student's or employee's ability to participate in or benefit from Pennco Tech's Programs or Activities.

A hostile environment can be created by anyone involved in a Pennco Tech Program or Activity (e.g., administrators, employees, students, and campus visitors).

In determining whether sex-based harassment has created a hostile environment, Pennco Tech considers the conduct in question from both a subjective and



objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the student or employee who was harassed. But Pennco Tech will also need to find that a reasonable person in the student's or employee's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment.

To make the ultimate determination of whether a hostile environment exists for a student or employee, Pennco Tech considers a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including:

- (1) the type, frequency, and duration of the conduct;
- (2) the identity and relationships of persons involved;
- (3) the number of individuals involved;
- (4) the location of the conduct and the context in which it occurred; and,
- (5) the degree to which the conduct affected the academic or workplace environment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

This policy does not seek to impair the exercise of rights protected under the First Amendment. Rather, this Policy prohibits only sexual, sex-based or gender-based harassment that creates a hostile environment, which is not protected speech. In this and other ways, Pennco Tech applies and enforces this policy in a manner that respects the First Amendment rights of students, faculty, and others.

***Quid pro quo Harassment:*** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes *quid pro quo* sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of evaluation of an individual's educational development or performance.

***Retaliatory Harassment:*** Any materially adverse action taken *because of* a person's participation in a protected activity. Protected activity includes reporting an

incident that may implicate this Policy, participating in the resolution process, supporting a party, or assisting in providing information relevant to an investigation.

**Sexual Assault:** Consists of either non-consensual sexual intercourse or non-consensual sexual contact.

**Non-Consensual Sexual Intercourse:** Any sexual intercourse, however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes: vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

**Non-Consensual Sexual Contact:** Any intentional sexual touching, however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual touching includes: intentional contact with the breasts, groin, genitals, or mouth, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner.

**Consent:** Consent is knowing, voluntary, and clear permission by word or action to engage in sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action showing consent at some point during the interaction or thereafter, but clear communication from the outset is the University's expectation. Consent cannot be given by someone who is forced to provide consent, or by a person that is incapacitated.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct, though reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is clearly

communicated. If consent is withdrawn, sexual activity should cease as soon as the withdrawal is reasonably communicated and understood. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of the reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

***Incapacitation:*** The physical and/or mental inability to make informed, rational judgments (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including by alcohol or other drugs. A person violates this Policy if they engage in sexual activity with someone they know to be, or should have known to be, physically or mentally incapacitated. This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs. It is not an excuse that the Respondent was intoxicated and, therefore, did not realize the incapacity of the Complainant. The question of whether the Respondent should have known of the incapacity is an objective question about what a reasonable person, exercising sober, good judgment, would have known, in the same or similar circumstances.

In New Jersey, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old may be a crime, and a potential violation of this Policy, even if the minor welcomed the sexual activity.

***Intimidation:*** Intimidation is behavior that places another person in reasonable fear of harm to their person or property. Intimidation can be manifested emotionally or physically, either directly or indirectly, and by use of social media.

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you.” “Okay, don’t hit me, I’ll do what you want.”). Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, 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. NOTE: Silence or the absence of resistance alone is not consent. While not required or necessary, resistance is a clear demonstration of non-consent. Consent is not demonstrated by the absence of resistance. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

**Sexual Exploitation:** Occurs when a person takes non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that behavior does not otherwise constitute sexual harassment under this Policy. Examples of sexual exploitation include, but are not limited to: sexual voyeurism (such as: watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person being observed); taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity – when there is a reasonable expectation of privacy during the activity – without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent), including the making or posting of revenge pornography; administering alcohol or drugs (such as rape drugs) to another person without their knowledge or consent (assuming the act is not completed); exposing one’s genitals in non- consensual circumstances.

**Dating violence:** The term “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 shall be determined based on 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.

***Domestic violence:*** The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of New Jersey, or 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 State of New Jersey.

***Stalking:*** Repetitive and menacing pursuit, following, harassing, and/or interfering with the peace and/or safety of another.

#### **Definitions Relevant to Title IX Sexual Harassment Proceedings**

***Actual Knowledge:*** Actual knowledge means notice of sexual harassment or allegations of sexual harassment to Pennco Tech’s Title IX Coordinator or any official of Pennco Tech who has authority to institute corrective measures on behalf of Pennco Tech. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of Pennco Tech with actual knowledge is the Respondent. The mere ability or obligation to report sexual harassment or to inform a student or employee about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of Pennco Tech. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

***Complainant:*** An individual who is alleged to be the victim of conduct that could constitute sexual harassment, or a parent who is legally authorized to act on behalf of the individual.

***Formal Complaint:*** A document filed by a Complainant or signed by the Title IX

Coordinator alleging sexual harassment against a Respondent and requesting that Pennco Tech investigate the allegation of sexual harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education Program or Activity Pennco Tech with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information listed for the Title IX Coordinator, and by any additional method designated by Pennco Tech.

***Document Filed by a Complainant:*** A document such as by e mail provided for this purpose must contain the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the “Grievance Process” established by this Policy.

***Pennco Tech Program or Activity:*** Title IX governs sexual harassment that occurs in the Pennco Tech education Programs or Activities, including at any locations, events, or circumstances over which the Pennco Tech exercises substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a

***Respondent:*** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

***Grievance Process:*** The formal procedures employed by Pennco Tech following the filing of a Formal Complaint, as more particularly set forth in 34 C.F.R. 106.45 of Title IX and as articulated in Section III of this Policy.

***Responsibility Determination:*** A written determination regarding the responsibility of the Respondent for the sexual harassment allegations, based upon findings of fact and conclusions regarding the application of Pennco Tech’s code of conduct to the facts, as well as a rationale for the result as to the allegations, including a determination regarding responsibility, any disciplinary sanctions Pennco Tech imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the Pennco Tech’s education Program or Activity will be provided by Pennco Tech to the Complainant. The Responsibility Determination shall also

explain Pennco Tech's procedures and permissible bases for the Complainant and Respondent to appeal the determination.

**Supportive Measures:** Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Pennco Tech's education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Pennco Tech's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Pennco Tech must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of Pennco Tech to provide the supportive measures. The Title IX Coordinator and The Title IX Coordinator Deputies are responsible for coordinating the effective implementation of supportive measures.

**Investigator:** The person(s) designated by Pennco Tech to carry out a formal investigation set forth in a Formal Complaint alleging sexual harassment. As explained in this Policy, the Investigator has the burden to gather sufficient evidence for the Decision Makers to render a Responsibility Determination. The Investigator will be one who is trained on the definition of sexual harassment, the scope of Pennco Tech's education Programs or Activities, and how to conduct an impartial investigation, free from prejudice of the facts, conflicts of interest, or bias.

**Decision Makers:** Persons designated by Pennco Tech to preside over the Live Hearing component of the Grievance Process and render a Responsibility Determination. The Decision Makers will be trained on the definition of sexual harassment, the scope of Pennco Tech's education Programs or Activities, the evidentiary standards applicable at the Live Hearing and relevant to the Responsibility Determination, and the need to preside over the Live Hearing.

**II. TITLE IX REPORTING AND RESPONSE PROCEDURES**  
**RIGHTS OF ALL STUDENTS AND EMPLOYEES IN**  
**CONNECTION WITH TITLE IX PROCEEDINGS**

The rights of all students and employees, including faculty, current and prospective students and employees, employees, who may be seeking additional information, support, or to file a Formal Complaint related to sexual harassment include, in part, the following:

- The right to a prompt, supportive, and equitable response by Pennco Tech to students and employees who are alleged to be victims of sexual harassment;
- The right, to a certain degree, to control Pennco Tech's-level response with a request for Supportive Measures and/or the filing of a Formal Complaint;
- The right to a full investigation of the alleged sexual harassment;
- The right to initiate and/or participate in the Grievance Process described herein, which shall be consistent with due process principles, and include appropriate notices and an opportunity to present evidence and witnesses at a Live Hearing;
- The right to have an advisor of their choosing (who can be an attorney) throughout the Grievance Process;
- The right to a written Responsibility Determination in resolution of the Grievance Process;
- The right to appeal the Responsibility Determination; and
- The right to forego the Grievance Process and participate in an informal resolution process.

**PRESERVATION OF EVIDENCE**

If you have experienced sexual harassment, sexual violence/assault, domestic violence, or dating violence, do everything possible to preserve evidence by making certain that the scene is not disturbed. Preservation of evidence may be necessary to pursue remedies. Victims of sexual harassment, sexual violence/assault should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not



be changed. When necessary, seek immediate medical attention at an area hospital.

It is also important to take steps to preserve evidence in cases of stalking; to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc., rather than evidence of physical contact and violence.

## **REPORTING SEXUAL HARASSMENT**

### **Who Can Report vs. Who Must Report**

As a general rule, Title IX states that ***any person may report*** sexual harassment regardless of whether they are the alleged victim of conduct that could constitute sexual harassment, and regardless of whether they are a member of the campus community.

However, all members of Pennco Tech (students, faculty, staff, and administrators) who are aware of or witness prohibited conduct as defined in this Policy **must** promptly report all details of the reports they receive or the behavior they witness to the Title IX Coordinator or its designees whom are authorized to take corrective measures on behalf of the Title IX Coordinator. In this vein, all members of Pennco Tech are considered “Non-Confidential Resources” because they cannot keep information concerning an alleged incident of sexual harassment confidential. Rather, they must report such information to the Title IX Coordinator, Teresa Gallagher or its designees so that the Pennco Tech can respond to the report or allegations in accordance with this Policy. The Title IX Coordinator’s designees include the Deputy Title IX Coordinators Daniele Cattell and Gordon Ernst. Such personnel will assist the Complainant in navigating this Policy and/or notifying law enforcement, if such assistance is requested.

Failure of a Non-Confidential Resource to report an alleged incident of sexual harassment of which they become aware is a violation of this Policy and can result in disciplinary action against such persons.

All other reporting parties may want to carefully consider whether they share personally identifiable details with Confidential or Non-Confidential Resources. The

following section describes the different mechanisms that can be utilized to report alleged incidents of sexual harassment.

## **How to Report**

### **1. Non-Confidential Reporting**

As noted, any person – regardless of their status with Pennco Tech– **may** report sex discrimination, including sexual harassment to the Title IX Coordinator or its designees.

Pennco Tech considers ***all employees (including student employees)***, other than those employees designated as confidential resources below, to be Non- Confidential Resources. Non-Confidential Resources are obligated to report any

knowledge of an incident of sexual harassment they become aware of to the Title IX Coordinator or its designees. In addition, non-employees are also encouraged to report violations.

Reports can be made in person, by mail, by telephone, or by email mail to the contacts listed below:

**Title IX Coordinator– Teresa Gallagher**

**215-785-0111, x342**

**Deputy Title IX Coordinator– Danielle Cattell**

**215-785-0111, x324**

**Deputy Title IX Coordinator – Gordon Ernst**

**856-232-0310, x 214**

## **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/report.html> 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](mailto:Reporting@penncotech.edu)

An immediate auto-response email with information about resources and options will be sent in response to reports filed by email.

## **Other Pennco Tech Reporting Options:**

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

## **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 911 for an immediate response

Blackwood Campus local Police: Gloucester Township Police 856-228-4500;

Bristol Campus local Police: Bristol Township Police 215785-4040

State Police information:

Blackwood Campus; Bellmawr State Police Barracks: 856- 933-0550

Bristol Campus: Bensalem State Police Barracks: 215942-3900

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 Pennock. 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.

### **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](mailto: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 <https://www.eeoc.gov/employees/howtofile.cfm>

## **Other Reporting Considerations**

### **False Allegations and Information**

Once an allegation of a violation of this Policy has been made and if it is determined that a faculty member, staff member/employee or student knowingly made a false or dishonest accusation of unlawful sexual harassment, discrimination and/or retaliation, or knowingly provided false information in the course of an investigation of such a complaint, such conduct *will be grounds for disciplinary action up to and including discharge in the case of a staff member/employee, expulsion in the case of a student, and dismissal for cause in the case of a faculty member governed by Article IX of the Constitution.*

### **Federal Timely Warning Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Pennco Tech administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. Pennco Tech will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

### **Federal Statistical Reporting Obligations**

Pennco Tech is also obligated to report sexual assault, domestic violence, dating violence, and stalking to the School Directors for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log. This reporting helps provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the Complainant and may be done anonymously.

## **PENNCO TECH'S RESPONSE TO SEXUAL HARASSMENT ALLEGATIONS**

Pennco Tech will act on any and every formal or informal allegation of sexual harassment that is received by the Title IX Coordinator or its designees who have been authorized to institute corrective measures on behalf of Pennco Tech. The procedures described below apply to all allegations of sexual harassment involving either a student or employee.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another, etc.).

All other allegations of student misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the student handbook.

All references to Title IX Coordinator throughout these procedures include the Coordinator's designees.

### **Title IX Coordinator Response**

Upon notice of an alleged incident of sexual harassment in a Pennco Tech Program or Activity to the Title IX Coordinator, or to any official of the Pennco Tech who has authority to institute corrective measures on behalf of Pennco Tech, the Title IX Coordinator or Title IX Coordinator Deputies shall promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. In the event a Formal Complaint is filed, certain Supportive Measures may also be made available to the Respondent.

The types of Supportive Measures that may be implemented include, but are not limited to:

- Referral to counseling, medical, and/or other health services
- Referral to the Employee Assistance Program
- Altering campus housing situation – Bristol Campus

- Altering work arrangements for employees or student-employees
- Altering access to Pennco Tech’s facilities, Programs or Activities
- Safety planning
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support
- Offering adjustments to academic deadlines, course schedules, etc.

Pennco tech will maintain as confidential any Supportive Measures being implemented, provided confidentiality does not impair Pennco Tech’s ability to provide the Supportive Measures. Any Supportive Measures taken will be at no cost to the Complainant or Respondent.

Pennco Tech will treat Complainants and Respondents equitably in response to all alleged incidents of sexual harassment arising under this Policy. Pennco Tech will generally not impose interim disciplinary actions against any Respondent before the Grievance Process outlined in Section III of this Policy is carried out. However, the University may suspend/remove a Respondent from a Pennco Tech Program or Activity on an emergency basis when, in the judgement of t Pennco Tech there is an immediate threat to the physical health or safety of any student, employee or other individual arising from the allegations of sexual harassment in such instances, Pennco tech will provide the Respondent with notice and an opportunity to challenge the decision immediately following the suspension/removal.

Pennco Tech may also place a non-student employee Respondent on administrative leave during the pendency of the Grievance Process.

**Special Considerations for Anonymous Complainants**

This Policy allows any individual, including third parties, with information regarding an alleged incident of sexual harassment in a Pennco Tech Program or Activity, to report such information anonymously and/or keep the identity of the Complainant (i.e., person alleged to be a victim of sexual harassment) anonymous. Note, however, that in order for Pennco Tech to provide Supportive Measures to a Complainant, at least one school official (e.g., the Title IX Coordinator) will need to know the Complainant’s identity.

Pennco Tech will maintain the confidentiality of the Complainant's identity during its interim response and implementation of Supportive Measures. Where a Complainant desires to file a Formal Complaint and proceed with the Grievance Process, the Complainant cannot remain anonymous to the Respondent. However, the identities of Complainants, Respondents, and witnesses may be kept confidential from anyone not involved in the Grievance Process.

### **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 noncompliance 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.

### **Complaint Against Title IX Coordinator**

If any complaint under this Policy is made against the Title IX Coordinator, the functions assigned to that person under this Policy will be transferred to an individual designated by the Vice President of Pennco Tech.



### **III. FORMAL GREIVANCE PROCESS**

#### **COMMENCEMENT OF THE GRIEVANCE PROCESS**

The procedures described below are provided for the prompt and equitable resolution of Formal Complaints, and are applicable regardless of whether the Complainant is a student or employee. Unlike the initial reporting of an alleged incident of sexual harassment, the Formal Complaint ensures that the Grievance Process identified below is carried out based on an intentional decision on the part of either the Complainant or the Title IX Coordinator.

#### **Right to an Advisor**

As a preliminary matter, it should be noted that throughout the Grievance Process, the Complainant and Respondent have the right to be accompanied to any related meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney. Except as otherwise indicated below, such advisor shall be retained by the Complainant and/or Respondent at their sole cost and expense. The parties may also pursue pro bono legal services offered by certain non-profit organizations and other agencies.

The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them. The parties may choose advisors from inside or outside the campus community. The parties may choose their advisor or proceed without an advisor. However, a party's chosen advisor must be one who is not otherwise involved in the resolution process, such as serving as a witness.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees to prepare for each meeting, and are expected to advise ethically, with integrity, and in good faith.

Pennco Tech cannot guarantee equal advisory rights throughout the Grievance Process, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, Pennco Tech is not obligated to provide one. However, if a party does not have an advisor present to conduct cross-examination at the "Live Hearing" described in this Policy, Pennco Tech will provide an advisor of Pennco Tech's choice without fee or charge to that party for purposes

of conducting cross-examination at the Live Hearing.

### **The Decision to File a Formal Complaint**

As noted throughout this Policy, all Complainants have a certain degree of rights with respect to the control of Pennco tech's response to allegations of sexual harassment. A Complainant (i.e., alleged victim of sexual harassment) can choose not to file a Formal Complaint. In deciding whether a Complaint must be pursued, the Title IX Coordinator and/or Deputy Title IX Coordinator will consider the increased risk that the Respondent will commit additional violations of this Policy, such as:

- whether there are, or have been other reports of sexual harassment made against the Respondent;
- whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- whether the Respondent has threatened further sexual harassment or other violence against the Complainant or others;
- whether the sexual harassment was allegedly committed by multiple persons;
- whether the sexual harassment was perpetrated with a weapon;
- whether the Complainant is a minor;
- whether Pennco Tech possesses other means to obtain relevant evidence of the sexual harassment (e.g., security cameras or personnel, physical evidence);
- whether the reported incident of sexual harassment reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

If the Title IX Coordinator or Deputy Title IX Coordinator determines that it will file a Formal Complaint, the Title IX Coordinator or Deputy Title IX Coordinator will inform the Complainant prior to such filing. Ongoing Supportive Measures will be available throughout the process.

### **Filing a Formal Complaint**

As noted, any Complainant participating in or attempting to participate in a Pennco Tech Program or Activity has the right to file a Formal Complaint alleging sexual harassment against a Respondent and requesting that Pennco Tech investigate the allegations. A Formal Complaint is a self-prepared document submitted in person, by mail, or by e-mail to:

#### **Title IX Coordinator /Executive Director of Human Resources**

**Teresa Gallagher**

**3815 Otter Street**

**Bristol, PA 19007**

**[tgallagher@penncotech.edu](mailto:tgallagher@penncotech.edu)**

**Direct dial- \*267-554-7623**

**Or**

#### **Deputy Title IX Coordinator Bristol Campus School Director**

**Danielle Cattell**

**3815 Otter Street**

**Bristol, Pa 19907**

**[dcattell@pencotech.edu](mailto:dcattell@pencotech.edu)**

**Direct dial \*167-554-7613**

#### **Deputy Title IX Coordinator Blackwood Campus School Director**

**Gordon Ernst**

**99 Erial Road**

**Blackwood, NJ 08012**

**[gernst@penncotech.edu](mailto:gernst@penncotech.edu)**

**Direct Dial \*856-373-5593**

Note that there is no time limit or statute of limitations on a Complainant's decision to file a Formal Complaint. There is also no requirement that the Formal Complaint set forth a detailed statement of facts. However, Complainants are encouraged, to the greatest extent practical, to provide the following information (if known):

- The Complainant's name and status as either a student or employee (including faculty)

and student-employees);

- The basis for the Formal Complaint, including a brief description of what is alleged to have occurred, the dates, times and locations of the alleged incident, etc.;
- The name and position/status of the Respondent and their status with respect to the Pennco Tech, if any; A statement that the Complainant is requesting an investigation of the allegations;
- The signature of the person filing the Formal Complaint and date of signature;

In cases where the Complainant is a minor student, the parents or legal guardians of the Complainant may file a Formal Complaint. In addition, a Formal Complaint may be initiated by the Title IX Coordinator on behalf of Pennco Tech alleging sexual harassment against a Respondent where the Title IX Coordinator has actual knowledge of such allegations. In such cases, the Title IX Coordinator is not considered the “Complainant” or otherwise a party to the Grievance Process, and will serve free from bias or conflict of interest for or against either the Complainant or Respondent.

Except as provided herein, no third parties (i.e., persons other than the alleged victim of sexual assault or their parent or legal guardian, or the Title IX Coordinator) may file a Formal Complaint on behalf of either the Complainant or Pennco Tech.

In the event Pennco Tech receives multiple Formal Complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, and the allegations arise out of the same facts or circumstances, Pennco Tech may consolidate the Formal Complaints.

### **Notice of the Formal Complaint**

Upon receipt of the Formal Complaint, the Title IX Coordinator will provide a written notice (“Notice of Formal Complaint”) to the parties whose identities are known, explaining the following:

- The Grievance Process set forth in this Policy;
- The allegations potentially constituting sexual harassment known at the time of the Notice of Formal Complaint, including the identities of the parties

involved in the incident (if known), the conduct allegedly constituting sexual harassment under this Policy, and the date and location of the incident (if known);

- The Respondent's right to prepare a response to the Formal Complaint before any initial interviews are conducted, which shall be prepared within seven (7) business days of the Notice of Formal Complaint;
- The fact that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is not made until the conclusion of the Grievance Process;
- The fact that a Responsibility Determination must be supported by a preponderance of the evidence gathered/presented, meaning evidence sufficient to show it is more likely than not that the allegations against the Respondent are true;
- The fact that the parties have the right to an advisor of their choice, who may be, but is not required to be, an attorney;
- The fact that parties and their advisors have the right to submit, inspect and review evidence; and
- The fact that this Policy prohibits any of Pennco Tech's students or employees, including faculty and student workers, from knowingly making false statements or knowingly submitting false information during the Grievance Policy.

The Notice of Formal Complaint will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official Pennco Tech records; or emailed to the parties' Pennco Tech- issued email account. Once mailed, emailed and/or received in-person, the Notice of Formal Complaint will be presumptively delivered.

In some instances, the Notice of Formal Complaint will advise the parties of the right to submit to a voluntary informal resolution process (i.e., mediation). ***The informal resolution process is only available in cases where the Formal Complaint alleges sexual harassment between a non-student employee and another non-***

***student employee, or between a student and another student. The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.***

Where available, the informal resolution process may be initiated at any time before a Responsibility Determination is reached. The informal resolution process can only be initiated upon the parties' voluntary, written consent. Under no circumstances will the parties be required to submit to an informal resolution process or otherwise waive their right to an investigation and adjudication of the Formal Complaint as described below. Any parties choosing to submit to an informal resolution process have the right to withdraw from the process and resume the Grievance Process up until the time that an agreed-upon resolution is reached.

### **Respondent Admission**

In the event the Respondent admits responsibility of the allegations of the Formal Complaint, Pennco Tech will determine an appropriate responsive action, including the appropriate sanction(s). Any such sanctions will be promptly implemented in order to effectively stop the conduct forming the basis of the Formal Complaint, prevent its recurrence, and remedy the effects of the incident, both as to the Complainant and the community.

If the Respondent only admits to part of the alleged policy violations, such admission will become a part of the evidentiary record of the Grievance Process, subject to consideration by the Decision Makers in reaching its determinations.

## **INVESTIGATION OF FORMAL COMPLAINT**

### **Timeline of Investigation**

Pennco Tech will designate objective Investigators to conduct a reasonably prompt investigation of the allegations set forth in the Formal Complaint, which concludes with the issuance of an "Investigative Report." Specifically, the Investigators shall aim to complete their investigation within a sixty (60) business day time period, which can be extended as necessary and upon notice to the parties. However, it

shall be understood that some investigations may take longer, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The Investigators will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation, as appropriate.

### **Effect of Other Proceedings**

It shall be understood that Pennco Tech's investigative action(s) are not typically altered or precluded on the grounds that the same allegations of the Formal Complaint are the subject of civil or criminal charges. However, the Investigators may undertake a short delay in their investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke Pennco Tech's Grievance Process are being investigated by law enforcement. The Investigators will promptly resume their investigation once notified by law enforcement that the initial evidence collection process is complete.

### **Scope of Investigation**

The scope of Pennco Tech's investigation shall be limited to the allegations set forth in the Formal Complaint and described in the Notice only. If, in the course of an investigation, Pennco Tech decides to investigate allegations about the Complainant or Respondent that are not included in the Notice, Pennco Tech will provide a supplemental notice to the parties of the additional allegations.

### **Objective Standard of Investigation**

It is Pennco Tech's burden, by and through its designated Investigators, to gather sufficient evidence for the Decision Makers to reach a determination regarding the responsibility of the Respondent. This does not mean that the Investigators are tasked with seeking out inculpatory evidence. Rather, the Investigators, much like the Title IX Coordinator and the Decision Makers, must proceed at all times with the presumption that the Respondent is not responsible for the alleged conduct and avoid prejudice of the facts at issue.

The Complainant and Respondent are permitted and encouraged to provide any inculpatory and exculpatory evidence related to the allegations of the Formal Complaint, as well as any witnesses that may have relevant information concerning

those allegations. The parties should proceed with the understanding that **the standard of review** ultimately governing the Responsibility Determination is the “preponderance of evidence” standard. This means that in order for a Respondent to be found responsible for the alleged incident of sexual harassment, the evidence must show it is more likely than not that the allegations are true.

### **Investigative Process**

As part of the investigation process, Pennco Tech typically takes the following steps, if not completed already (not necessarily in order):

- In coordination with campus partners (e.g., the Title IX Coordinator, Title IX Coordinator Deputies), initiates or assists with any necessary interim Supportive Measures;
- Identifies all Pennco Tech policies implicated by the allegations of the Formal Complaint;
- Evaluates the allegations of a Formal Complaint to determine if any of the following grounds for dismissal exist:
  - If the conduct alleged in the Formal Complaint would not constitute sexual harassment, even if proved;
  - If the conduct alleged in the Formal Complaint did not occur in a Pennco Tech Program or Activity;

*The above-noted assessment may be addressed at the outset of the investigation and at any time during the Investigation or Live Hearing. Any such dismissal does not preclude the Pennco Tech from taking other action under other provisions of Pennco Tech’s Code of Conduct.*

- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses;
- Interview all relevant individuals and conduct follow-up interviews as necessary.
- The Investigators will make good faith efforts to notify the parties of any



meeting or interview involving the other party, in advance where possible, and allow each party the opportunity to suggest questions they wish the Investigators to ask of the other party and witnesses.

- Provide the parties and witnesses with an opportunity to review and verify the Investigators' summary notes from interviews and meetings with that specific party or witness.

The Investigators will make reasonable efforts to conclude the investigation promptly and without unreasonable deviation from the intended timeline. The parties will be given periodic status updates regarding the status of the investigation.

### **Witness Cooperation**

Witnesses (as distinguished from the parties) who are faculty, students or staff of Pennco Tech are expected to cooperate with and participate in Pennco Tech's investigation and resolution process. Failure of a witness to cooperate with and/or participate in the investigation or resolution process constitutes a violation of this Policy and may be subject to discipline.

Witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigators determine that timeliness or efficiency dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, if deemed appropriate by the Investigators, though this approach is not ideal.

No unauthorized audio or video recording of any kind is permitted by any party during investigation meetings. If Investigators elect to audio and/or video record interviews, all involved parties must be made aware of and consent to audio and/or video recording.

### **Opportunity for Parties to Review Evidence**

The Investigators will grant the parties a full and fair opportunity to fully inspect and review any and all evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint. The purpose of this provision is to afford the parties an opportunity to respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigation, the Investigators will send each party and their advisors, if any, the evidence subject to inspection and review in an electronic format or hard copy, and the parties will have at least ten (10) business days to submit a written response, which will then be considered by the Investigators in their development of an "Investigative Report."

### **Preparation of Investigative Report**

The Investigators will create an "Investigative Report" that fairly summarizes relevant evidence that has been gathered, and sets forth a date, time and location of a Live Hearing where designated objective "Decision Makers" will consider the evidence and hear live witness testimony. The Investigative Report will be sent to each party and their advisor, if any, at least ten (10) business days prior to the date of the Live Hearing, for their review and written response.

## **LIVE HEARING**

Following the Investigation, Pennco Tech shall, through designated "Decision Makers," conduct a Live Hearing. The Live Hearing may, at either Pennco Tech's discretion or the request of the parties, be held with the parties physically present in the same geographic location, or in separate rooms of the same location or different locations with technology enabling the Decision Makers and parties to simultaneously see and hear the proceeding.

The Live Hearing will be recorded by (video/transcribed) and, upon request, made available to the parties for inspection and review.

### **Role of the Decision Makers**

The function of the Decision Makers is to preside over the Live Hearing in a fair and equitable manner, without prejudgment of the facts at issue, and free of any bias or conflicts of interest against the Complainant or Respondent.

The Decision Makers are charged with evaluating the relevant evidence, hearing and controlling the scope of live witness testimony (including cross-examination), and reaching findings of fact and credibility determinations regarding the evidence and witness testimony. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

Based upon their evaluation, the Decision Makers will make conclusions regarding whether the Respondent is responsible for the sexual harassment allegations, whether the conduct violates the Pennco Tech's Code of Conduct, and whether any disciplinary sanctions should be imposed on the Respondent and/or remedial measures should be implemented in favor of the Complainant. Such "Responsibility Determination" shall be issued in writing to the parties simultaneously within seven (7) business days of the Live Hearing, and shall explain the procedures and permissible grounds for either party to appeal the determination.

### **Relevancy Standards**

Only relevant evidence and testimony may be presented at the Live Hearing. This means that the parties' advisors may only examine/cross-examine witnesses with relevant questions. The Decision Makers have the discretion to exclude irrelevant questions. Such relevancy determinations shall be made by the Decision Makers and explained to the parties and their advisors.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior is considered not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the Live Hearing, the Decision Makers must not rely on any statement of that party or witness in reaching a Responsibility Determination. Further, the Decision Makers cannot draw an inference about the Responsibility Determination based solely on a party's or witness's absence from the Live Hearing or refusal to answer cross-examination or other questions.

### **Right to Cross-Examination**

At the Live Hearing, only the parties' advisors may ask the other party and any witnesses

questions and follow-up questions. Such cross-examination must never be conducted by a party personally.

Cross-examination must be conducted directly, orally, and in real time. The scope of cross-examination is limited to relevant questions regarding the sexual harassment allegations. However, the advisor may ask questions bearing upon the witness's credibility.

### **RESPONSIBILITY DETERMINATION**

As part of its Responsibility Determination, the Decision Makers must decide whether Pennco Tech should impose any disciplinary sanctions on the Respondent, and whether any remedies designed to restore or preserve equal access to Pennco tech's education Programs or Activities should be provided to the Complainant.

The available remedies include those which are addressed in the Supportive Measures section of this Policy. The Title IX Coordinator and Title IX Coordinator Deputies are responsible for the effective implementation of any remedies deemed necessary by the Decision Makers.

Below is a list of potential sanctions that may be imposed against student and employee Respondents.

### **Student Sanctions**

The following are the types of sanctions that may be imposed upon students or student organizations singly or in combination:

- **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any Pennco Tech policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Probation:** A written reprimand for violation of Pennco Tech's policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any Pennco Tech policy, procedure or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, no-contact orders, and/or other measures deemed appropriate.
- **Restrictions:** Actions taken that restrict the Respondent in some way to ensure the safety and security of the campus and its members, and may restrict the interaction between the Respondent and the Complainant.
- **Suspension:** Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student of Pennco Tech. At the discretion of the Title IX Coordinator, this sanction may be noted as a Disciplinary Suspension on the student's official transcript.
- **Expulsion:** Permanent termination of student status, revocation of rights to be on campus for any reason or attend Pennco Tech-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- **Withholding Diploma:** Pennco Tech may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- **Revocation of Degree:** Pennco Tech reserves the right to revoke a degree

previously awarded from Pennco Tec for fraud, misrepresentation, or other violation of Pennco Tech policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

- **Other Actions:** In addition to or in place of the above sanctions, Pennco Tech may assign any other sanctions as deemed appropriate.

### **Faculty or Staff Sanctions**

Sanctions for a faculty member or staff member who has engaged in unlawful sexual, sex- based and gender-based harassment, discrimination or retaliation include, but are not limited to:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with Pay
- Suspension without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, Pennco Tech may assign any other sanctions as deemed appropriate.

Sanctions imposed as the result of the Responsibility Determination are implemented immediately unless the Title IX Coordinator or designee stays their implementation in extraordinary circumstances pending the outcome of an appeal.

## **APPEALS**

### **Notice of Appeal**

The Respondent or Complainant may submit a “Notice of Appeal” of the Responsibility Determination rendered by the Decision Makers, or from Pennco Tech’s dismissal of a Formal Complaint or any allegations therein, within three (3) business days of such determinations. The Notice of Appeal shall be submitted to the Title IX Coordinator, who will thereafter notify the parties in writing that the appeal has been filed and that the appeal procedures described below have been commenced.

If the Notice of Appeal is not timely filed or is not based on the grounds listed below, the Responsibility Determination shall stand and be considered final.

### **Grounds for Appeal**

An appeal may only be taken based upon the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., material deviation from established procedures, the decision was based upon irrelevant evidence, the decision was not supported by a preponderance of the evidence, etc.);
- New evidence that was not reasonably available at the time the Responsibility Determination or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigators, and/or Decision Makers had a conflict of interest or bias for or against complainants or respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.

*Disagreement with the finding or sanctions is not, by itself, grounds for appeals.*

### **Written Appeal Submissions**

As noted, upon its receipt of the Notice of Appeal, the Title IX Coordinator will notify the parties in writing that the appeal has been filed and that the appeal procedures have commenced and will be overseen by the Appeals Panel described below. The notification shall set forth a timeframe by which the parties have to submit written statements in support of, or challenging, the outcome of the determination(s)

reached, as well as responding statements to the other party's submission and/or bases to counter-appeal.

### **Review by Appeals Panel**

The Appeals Panel will comprise of three (3) trained individuals, all of whom were not involved or participants in the underlying proceedings. The Appeals Panel shall be comprised of individuals who are specifically trained on the definition of sexual harassment, the scope of Pennco Tech's Programs or Activities, the evidentiary standards applicable at the Live Hearing and relevant to the Responsibility Determination, and the need to preside over the appeal without prejudgment of the facts, conflicts of interest, or bias.

Appeals are not intended to be full re-hearings (de novo review) of the allegations. Rather, the Appeals Panel will consider only the parties' written submissions, the record of the Investigation and Live Hearing, the Responsibility Determination or dismissal, and pertinent documentation regarding the grounds for appeal.

**The standard of review** of the appeal may vary based upon the grounds for the appeal. However, on most questions the Decision Makers' determination will be entitled to deference. An appeal is not an opportunity for the Appeals Panel to substitute its judgment for that of the original Decision Makers merely because they disagree with its finding and/or sanctions.

The Appeals Panel may take the following actions after considering an appeal:

- Remand the matter to the original Decision Makers to be reheard in whole or part. At the discretion of the Appeals Panel, different Decision Makers may be designated;
- Affirm the original decision and/or sanctions;
- Reverse the original decision and/or sanctions;
- Affirm or reverse the original decision in part and/or alter the sanctions which could increase or decrease the severity of the sanction(s).



### **Determination on Appeal**

The Appeals Panel will undertake a reasonably prompt review of all appeals and issue a written decision describing the result of the appeal and the rationale for the result within seven (7) business days of the date of the last submission to the Appeals Panel. The written decision will be provided simultaneously to both parties.

Once an appeal is decided, the outcome is final. Further appeals are not permitted, even if a decision or sanction is changed on remand.

In rare cases where a procedural or substantive error cannot be cured, the Appeals Panel may recommend a new investigation and/or Grievance Process, including new Decision Makers. The results of a new Responsibility Determination can be appealed, once, on any of the three applicable grounds for appeals.

In cases where the appeal results in reinstatement to Pennco Tech or resumption of privileges, all reasonable attempts will be made to restore the Respondent to his/her prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **1V. MISCELLANEOUS:**

### ***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.

### **External Reporting**

In addition, the individual may formally file a complaint directly with the United States Department of Education:

Office for Civil Rights (OCR)

400 Maryland Avenue, SW

Washington, DC 20202-

1100

Customer Service Hotline #: 800-421-

3481 Fax: 202-453-6012

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

State of New Jersey Division of Civil Rights  
Central Regional Office

## **Resources:**

- Resources available for confidentiality are: Rape, Abuse, and Incest National Network: [www.rainn.org](http://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](http://www.novabucks.org) NJ-Coalition Against Sexual Assault HOTLINE:
- 1-800-601-7200.

## **Time Frames**

Any time limits set forth in these procedures may be extended by the Title IX Coordinator, Decision Makers or Appeals Panel for good cause shown. For purposes of this Policy, “good cause” includes, but is not limited to, considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities; and any other facts or circumstances rendering the time limits set forth in the Policy unreasonable or impracticable.

The Complainant and Respondent will be given reasonable notice of any such extensions of the time limits set forth in the Policy.

## **Changes to this Policy**

Pennco Tech reserves the right to revise, modify, amend or terminate any part or all of these procedures at any time at the University’s sole discretion without prior notice.