

Sexual Discrimination/Misconduct Policy, Rev. 4-30-19
Indiana University of Pennsylvania
Excerpt:

R. Sexual Misconduct Offenses (include but are not limited to)¹

- 1 – Sexual Harassment
- 2 – Non-Consensual Sexual Contact (or attempts to commit same)
- 3 – Non-Consensual Sexual Intercourse (or attempts to commit same)
- 4 – Sexual Exploitation
- 5 – Retaliation
- 6 – Other

NOTE: Intimate Partner Violence, defined as violence or abuse between those in an intimate relationship to each other, refers to both dating violence and domestic violence, which may be reportable as felony or misdemeanor crimes.² Acts of intimate partner violence may be charged as non-consensual sexual contact, non-consensual sexual intercourse, physical violence, or some other charge under this or another University policy.

1. Sexual Harassment:

Sexual harassment is unwelcome, sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.³ Sexual harassment may be disciplined when it takes the form of quid pro quo harassment and/or creates a hostile environment.

- a. A hostile environment is created when sexual harassment is sufficiently severe, or persistent or pervasive, and objectively offensive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational and/or employment, social, and/or residential program.
- b. Quid Pro Quo Harassment is 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 when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program or activity.

2. Non-Consensual Sexual Contact:

Non-Consensual Sexual Contact is any intentional sexual touching, however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual Contact includes: intentional contact with the breasts, buttock, groin, or genitals, 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.

3. Non-Consensual Sexual Intercourse:

¹ Use of alcohol or other drugs will never function to excuse any behavior that violates this policy.

² Under Pennsylvania law domestic abuse is knowingly, intentionally, or recklessly causing bodily injury of any kind, causing fear of bodily injury of any kind, assault (sexual or not sexual), rape, sexually abusing minor children, or knowingly engaging in a repetitive conduct toward a certain person (i.e. stalking) that puts them in fear of bodily injury. These acts can take place between family or household members, sexual partners or those who share biological parenthood in order to qualify as domestic abuse. Domestic violence includes felony or misdemeanor crimes of violence.

³ Purpose or intent is not an element of sexual harassment.

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

4. Sexual Exploitation:

Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Forcing a person to engage in sexual activity through coercion or intimidation;
- Sexual slavery, defined as the state of being unlawfully kept in a situation in which one is repeatedly forced to engage in sexual activity against one's will;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals.

5. Retaliation:

Retaliation is defined as any adverse action taken against a person participating in a protected activity (asserting one's rights pursuant to this or other University policy), because of their participation in that protected activity. Retaliation will not be tolerated in situations including, but not limited to, adverse action against an individual for making an allegation, for supporting any given party, or for assisting in providing information relevant to an allegation.

6. Other:

- Alleged violation of federal, state, or local laws, regulations, or ordinances and other University policies and regulations, either printed or published on the University website, related to sex or gender discrimination or sexual misconduct.
- Any other University policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.