
Table of Contents

Title IX: Discrimination on the Basis of Sex and Sexual Misconduct	2
Philosophy	3
Policy	4
Sexual Misconduct	4
Sexual Assault	4
Stalking	4
Cyber-Stalking	5
Domestic and Dating Violence	5
Sexual Harassment	5
Sexual Exploitation	6
Definitions	
Advisor	6
Amnesty	6
Coercion	6
Complaint	6
Complainant	6
Complicity	7
Consent	7
Incapacitation	7
Investigation	7
Investigative Team	7
Investigative Summary	7
No Contact Order	7
Respondent	7
Retaliation	8
Sexual Misconduct Committee	8
Witness	8
Reporting	
Reporting	8
False Reporting	9
Confidentiality	9
Reporting options	9
External Reporting Options	11
Resolution	
Rights of the Complainant and Respondent	11
Informal Procedures	11
Formal Procedures	12
Investigation	12
Standard for Determining Responsibility	13
Sexual Misconduct Committee	13
Purpose of the Hearing	13
Investigative Report	14
Hearing Process	14
Sanctions	16
Appeal Process	16

Title IX: Discrimination on the Basis of Sex and Sexual Misconduct

In accordance with Title IX, the University establishes that sexual misconduct incidents are types of sex discrimination. Sex discrimination violates the basic right of each individual to be treated as a person worthy of respect and is in direct contradiction to the University's Mission.

Gannon University does not discriminate on the basis of race, color, creed, age, gender, sexual orientation, religion, national origin, veteran status, physical or mental disability, genetic information or any other basis of prohibited discrimination its programs and activities. This policy extends to employment with and admission to the University.

The following person has been designated to handle inquiries regarding the nondiscrimination policies:

Susan Majocka, Director of Student Accountability and Prevention Education; Title IX Coordinator
Office Location: Student Development and Engagement, Beyer 306
814-871-7224
Kerner005@gannon.edu

Additionally, inquiries concerning Title IX and its implementing regulation can be made to:
Office for Civil Rights, **Philadelphia Office** U.S. Department of Education, The Wanamaker Building
100 Penn Square East, Suite 515 Philadelphia, PA 19107-3323; Telephone: (215) 656-8541
Email: OCR.Philadelphia@ed.gov

PHILOSOPHY

Faithful to its mission as an educational community and Catholic University, Gannon University (hereinafter referred to as "University") affirms and promotes the fundamental dignity and respect accorded to all people by virtue of their common humanity. Both Scripture and Christian tradition affirm this, beginning with the book of Genesis: "In the divine image...male and female God created them" (Genesis 1:27). Sexual misconduct violates this basic right of each individual to be treated as a person worthy of respect and is in direct contradiction with the University's Mission.

The University is committed to maintaining a safe environment free from sexual misconduct/discrimination and, therefore, will not tolerate sexual misconduct of any kind. In an ongoing effort to prevent and address sexual misconduct, the University provides education and prevention programs, investigates complaints of sexual misconduct and dispenses corrective or disciplinary action where appropriate. The University will also provide remedies and information about resources, including how to obtain counseling and medical care and pursue criminal and University disciplinary actions. Remedies include interim measures, informal, or formal procedures as described below.

Behaviors that contribute to or constitute sexual misconduct have no place at Gannon University, where people are expected to learn and develop to their full potential. Through the sexual misconduct policy and protocol, the University seeks to provide an adequate, reliable and impartial response in a caring manner when these behaviors occur within the University community. Support and information will be available to assist students in making decisions throughout the reporting and investigating process. This policy applies to student behavior whether on or off campus, as it affects all University students.

All students, faculty and staff, as well as members of the public participating in University activities, have the right to an environment free from sexual misconduct. Violence, abuse, intimidation and/or retaliation directed toward another person violate the University's Code of Conduct and Pennsylvania State laws. Members of the University community are expected to comply with University policies and guidelines in addition to federal, state and local laws whether on or off campus.

POLICY

This policy applies to members of the Gannon Community whether on or off campus.

Sexual Misconduct is defined as any activity of a sexual nature that violates another individual's physical and/or emotional well-being or personal space without that person's explicit consent. Sexual misconduct incorporates a range of behaviors including rape, sexual assault (which includes any kind of nonconsensual sexual contact), sexual harassment, relationship violence, stalking, and any other conduct of a sexual nature that is nonconsensual, or has the effect of threatening, intimidating, or coercing a person(s). Sexual misconduct occurs when there is a lack of mutual consent about sexual activity.

Behaviors that violate the Sexual Misconduct Policy include, but are not limited to the following:

Sexual Assault: Any type of sexual contact or behavior that occurs without the explicit consent of the other person or is obtained through the use of force, threat of force, intimidation or coercion. This includes but is not limited to the following:

Sexual intercourse (anal, oral or vaginal) with some penetration, however slight by another person or with any object by another person, and any sexual contact, however slight, by another person or with any object, by another person.

Rape: Sexual intercourse by forcible compulsion or threat of forcible compulsion or where one of the participants lacks the capacity to consent.

- Compulsion can be use of physical, intellectual, moral, emotional or psychological force, either expressed or implied.
- It also includes sexual intercourse with a person who is unconscious, incapacitated by alcohol or drugs, underage, mentally challenged, unconscious or asleep.

Sexual Contact: Includes intentional contact with breasts, buttocks, groin, genitals, mouth or other bodily orifices of another person or touching another person with any of these body parts or making another person touch you or themselves with any of these body parts. It also includes intentional contact with any bodily part in a sexual manner.

Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

Stalking behaviors may include, but are not limited to:

- Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, text messages, messages on social media, written letters, gifts, or any other communications that are undesired and place another person in fear.
- Pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the Complainant.
- Surveillance or other types of observation including staring, and/or peeping.
- Trespassing and/or vandalism targeted at a specific person.
- Gathering information about an individual from friends, family, and/or co-workers.

Cyber-stalking: A particular form of stalking in which threatening behavior or unwanted sexual advances directed at another person using electronic media such as: web pages, social networks, blogs, cell phones, texts, or other online and computer contact.

Some examples of cyber-stalking may include, but are not limited to:

- Repetitive nonconsensual or unsolicited emails.
- Instant messages and messages posted in on-line bulletin boards.
- Unsolicited communications about a person, their family, friends, or co-workers that may be deemed threatening.
- Sending/posting unwelcomed and unsolicited messages with another username.
- Using electronic devices or software to track and/or obtain private information and to contact and/or post threatening or personal information.

Domestic Violence: includes asserted violent misdemeanor and felony offenses committed by the Complainant's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Dating Violence - violence by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.

Sexual Harassment: Sexual harassment involves the behavior of a person of the opposite or same sex, and occurs when such behavior constitutes unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical behavior of a sexual nature that has the effect of substantially interfering with a person's academic performance, employment or equal opportunity to participate in or benefit from University programs or activities or by creating an intimidating, hostile or offensive working or educational environment.

Examples of sexual harassment include, but are not limited to the following behaviors:

- Sexually degrading words or gestures to describe an individual.
- Unwelcome touching, patting, pinching, or brushing another's body or clothing.
- Comments about an individual's body, clothing or lifestyle which have sexual implications.
- Repeated offensive sexual flirtation, leering or ogling.
- Display of sexually demeaning objects, pictures, or cartoons in hallways, outdoor areas and rooms publicly accessible to members of the University community, including offices.
- Conduct of a sexual nature that interferes with an individual's academic or work performance or creates an intimidating, hostile or offensive environment.
- Implied or direct threats or insinuations that an individual's refusal to submit to sexual advances will adversely affect the individual's status, evaluation, wages, advancement, duties or career development.

Sexual exploitation is an act or acts committed through non-consensual abuse or exploitation of another person's sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose.

The act or acts of sexual exploitation are prohibited even though the behavior does not constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include:

- Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved
- Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved
- Exposing another's genitals in non-consensual circumstances
- Knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge
- Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

DEFINITIONS

Advisor -The role of the advisor is to advise and support the student during the course of the complaint process. The student may bring an advisor of his or her choosing to all meetings relating to the disciplinary proceedings. The advisor may not address the board on behalf of the student, appear in lieu of the student or otherwise represent their advisee during the process.

Amnesty- To encourage reporting, an individual who makes a good faith report or provides information regarding sexual misconduct that was directed at them or another person will not be subject to disciplinary action by the University for a conduct or policy violation that is related to and revealed in the sexual misconduct report or investigation, unless the University determines that the violation was serious and/or placed the health or safety of themselves or others at risk.

Coercion- The use of emotional manipulation to persuade someone to do something they do not want to do or to refrain from doing something that they want to do.

Complaint- A formal allegation of wrongdoing or violation of the sexual misconduct policy that may result in a formal investigation. Filing a complaint does not automatically imply that formal disciplinary charges will occur.

Complainant: For the purposes of this policy, the recipient or target of alleged sexual misconduct will be referred to as the complainant. They are also often referred to as the Complainant or survivor in sexual misconduct investigations. It should be noted that an investigation of sexual misconduct may be initiated by the University or someone who is not necessarily the recipient or target of the sexual misconduct.

Complicity- Presence during any violation of University Policy in such a way as to condone, support, or encourage the attempted or carried out violation.

Consent- Consent is defined as clear permission between individuals. Consent must be positively established. It is never presumed. To consent to something means you confidently agree to participate based on your own free will without any influence or pressure.

- Consent is informed, knowing, and voluntary.
- Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in sexual activity.
- In the absence of an outward demonstration, consent does not exist.
- Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity.
- Consent to engage in sexual activity may be withdrawn by either party at any time. Withdrawal of consent must also be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
- A previous sexual relationship, and/or current relationship, may not, in itself, be taken to imply consent.
- Consent does not exist if it results from the use of physical force, intimidation, coercion or incapacitation. If a sexual act is occurring and physical force, intimidation, coercion or incapacitation develops, there is no longer consent.
- Consent cannot be given if a person is, incapacitated by alcohol or drugs, underage, mentally challenged, unconscious, or asleep.
- Use of alcohol or drugs does not diminish one's responsibility to obtain consent, and does not excuse conduct that constitutes sexual misconduct under this policy.

Incapacitation- The inability, temporarily or permanently, to give consent, because someone is mentally and/or physically helpless, unconscious, or unaware due to drug or alcohol consumption (voluntarily or involuntarily), or for some other reason. Incapacitation means a person does not have the ability to knowingly give consent.

Participating in a sexual activity with someone whom the actor knows or should reasonably know is incapacitated constitutes a violation of this policy.

Investigation- A fact-finding inquiry into a complaint.

Investigation Team- The Investigative Team consists of two individuals who are trained to investigate violations of the University sexual misconduct policy.

Investigative Summary- A summary written by the Investigative Team, based on interviews with the respondent, witnesses, complainant and any other relevant source of information obtained during the investigation. This summary will be part of the documentary record and will be presented to the Sexual Misconduct Committee hearing panel.

No Contact Order - This order prohibits any attempt to contact or respond to any communication between the recipients, directly or indirectly. Violations of a no contact order including any attempts to harass, threaten, or intimidate participants by any means, including electronic media, will be grounds for disciplinary action.

Respondent- A person against whom a complaint of sexual misconduct is made.

Retaliation- Any adverse action taken against a person who is participating or participated in a protected activity (such as participating in or otherwise assisting with a University investigatory procedure); filing a complaint alleging prohibited discrimination (including harassment); or otherwise objecting to or reporting a practice that he or she reasonably and in good faith believed was in violation of this Policy, where such adverse action is taken because of the person's participation in that protected activity. Retaliation involves intentional adverse action taken by a respondent or allied third party, absent legitimate nondiscriminatory purposes, that harms the individual as reprisal for reporting a violation of the Nondiscrimination and Anti-Harassment policy or participating or otherwise assisting in an investigation of an alleged violation of the policy. Taking intentional adverse action against a respondent is also impermissible.

Sexual Misconduct Committee (SMC)

The Sexual Misconduct Committee is the University body charged with resolving complaints of student-to-student sexual misconduct. The committee is composed of trained staff and administrators. Each sexual misconduct complaint is heard and adjudicated by a hearing panel of three representatives drawn from the full membership of the SMC by the Title IX Coordinator. A chairperson of the hearing panel will be designated by the Title IX Coordinator. The chairperson will be a non-voting individual who is responsible for leading the hearing process.

Witness- Any person (as determined by the Investigative Team) who may have relevant information about the incident in question.

REPORTING

An individual who believes that he or she is the Complainant of sexual misconduct or has witnessed an incident of sexual misconduct is encouraged to make a report. The University encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual misconduct. An individual's physical well-being should be addressed as soon as possible, whether or not that individual wishes to make a report to the University or law enforcement. The University will help any individual to get to a safe place and will provide transportation to the hospital, coordination with law enforcement and information about on- and off-campus resources and options for resolution.

A medical provider can provide emergency and/or follow-up medical services, and meet two goals: first, to diagnose and treat the full extent of any injury or physical effect and second, to properly collect and preserve evidence. Following an incident of sexual assault, evidence is best preserved for proof of a criminal offense within 96 hours of the assault. In the event of a report immediately following an incident of sexual assault, a Complainant is encouraged to seek medical attention as soon as possible, and even before any shower, bathing, douching, brushing of teeth, drinking, or change of clothing. Similarly, any clothing, towels or bedding should remain untouched pending collection by law enforcement. Whether or not an individual has chosen how to proceed at the time of the medical examination, taking the step to gather evidence will preserve the full range of options to seek resolution through the University's complaint processes or through the pursuit of criminal investigation.

Please note that under Pennsylvania law, a medical provider may be required to notify law enforcement of a reported sexual assault under most circumstances. The University encourages the Complainant to report the incident to law enforcement. However, the Complainant may at any time, decline to speak

with a law enforcement officer and decide on the extent of his or her participation in a criminal prosecution.

False Reporting

Knowingly filing a false report is cause for disciplinary and potentially criminal and civil action. The University prohibits an individual from knowingly filing a false report or making misrepresentations of sexual misconduct (including sexual assault, sexual discrimination and sexual harassment). However, a report made in good faith is not considered false merely because the evidence of the allegation does not ultimately support the allegation of sexual misconduct.

Confidentiality

Complainants of sexual misconduct who are not ready to inform the University may contact the psychologists, counselors and nurses at Gannon University's Counseling and Health Services or priests in the office of Mission and Ministry and the resident campus ministers for confidential support. These campus professionals can legally maintain confidentiality, which means no disclosure unless there is an imminent risk to self or others.

Under a federal law known as the Clery Act, the University is required to maintain statistics of serious crimes reported on or near campus. Confidential resources that are University Employees will submit anonymous statistical information for Clery Act purposes.

Confidential Resources

- Counseling Services 814-871-7622
- Health Services: 814-871-7622
- Campus Ministry 814-871-7435

Reporting Options

Anyone who believes that he or she is the Complainant of sexual misconduct or has witnessed an incident of sexual misconduct whether it occurred on or off campus is encouraged to make a report to any of the following resources.

Campus Police and Safety	814-871-7000	Available 24 hrs., 7 days
On-Duty Resident Director	814-871-7000	Available 24 hrs., 7 days
Student Conduct Officer	814-871-7224	
Commuter Life Staff	814-871-5882	
Academic Program Directors	Various University Numbers	
Coaches	Various University Numbers	
Title IX Officer, Susan Majocka	814-871-7224 or Email: titleix@gannon.edu	

Beyer Hall Suite 306

All reports of sexual misconduct will be handled in confidence to the extent allowed by law. The information reported will be shared only with those University employees who will assist in aiding the Complainant while conducting the investigation and/or the resolution of the complaint. The University will respect the privacy of all parties involved in a report of sexual misconduct.

The student may request confidentiality when reporting an assault to University by requesting that his or her identity be omitted from the report. When a Complainant requests confidentiality, it may limit the University's ability to thoroughly investigate and respond. The request will be reviewed by the Title IX Coordinator in consultation with the Investigative Team.

There are times when the University may not be able to honor a Complainant's request in order to provide a safe, non-discriminatory environment for all students.

When weighing a Complainant's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged respondent will commit additional acts of sexual or other violence, such as:
 - whether there have been other sexual violence complaints about the same alleged respondent;
 - whether the alleged respondent has a history of arrests or records from a prior school indicating a history of violence;
 - whether the alleged respondent threatened further sexual violence or other violence against the Complainant or others;
 - whether the sexual violence was committed by multiple respondents;
- whether the sexual violence was perpetrated with a weapon;
- whether the Complainant is a minor;
- whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the Complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors may lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University will likely respect the Complainant's request for confidentiality.

If the University (Title IX Coordinator) determines that it cannot maintain a Complainant's confidentiality, the University (Title IX Coordinator) will inform the Complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response.

The University will remain ever mindful of the Complainant's well-being, and will take ongoing steps to protect the Complainant from retaliation or harm and work with the Complainant to create a safety plan. A safety plan is tailored for the individual depending on the nature of the circumstances. Retaliation against the Complainant, whether by students or University employees, will not be tolerated.

In order to facilitate reporting, the investigative team will grant amnesty to the Complainant and may choose to grant amnesty to witnesses for behavior that otherwise would be considered a violation of University policy (for example consuming alcohol underage or illegal drugs).

External Reporting Options

SafeNet 814-455-1774 (24-hr. Crisis Hotline- 814-454-8161)-Relationship Violence

Erie Crime Victim Center 814-455-9414 (Crisis or Sexual Violence Advocate 1- 800-352-7273)

Erie Police Department: 814-879-1125 or 911

UPMC Hamot: 814-877-6000

UPMC Crisis Network: 1-888-796-8226

St. Vincent Hospital: 814-452-5000 (ask for Emergency Dept.)

RESOLUTION

Rights of Complainant and Respondent of sexual assault

1. The right to have any and all alleged violations treated with seriousness, dignity, and confidentiality. This includes an investigation by University officials and/or law enforcement, adjudication, or mediation to bring closure to the incident.
2. The right to be informed of University and community resources, including, but not limited to, the Campus Police and Student Health and Counseling Services.
3. The right to a prompt and equitable resolution to the complaint. All investigations will examine the preponderance of the evidence presented.
4. The right to have an advisor present during all meetings relating to the conduct proceedings.
5. The right, upon request, to have a no-contact order filed prohibiting any communication or contact including but not limited to verbal, written, electronic or third-party communication.
6. The right, upon request, to review options for academic and/or housing assignment changes.
7. The right to recommend witnesses during a University investigation.
8. Accommodations will be made for the complainant if they are not comfortable being in the same room as the other party.
9. The right to be notified of the outcome of SMC proceedings in writing.
10. The right to appeal the finding of a University SMC proceeding within the University's appeal guidelines as defined herein.

Informal Procedures

A complainant may elect to pursue an informal resolution for all allegations of sexual misconduct except for sexual assault. An informal resolution is designed to resolve complaints quickly, efficiently and to the mutual satisfaction of all parties involved. Informal resolutions include: but are not limited to,

- Mediation of the complaint conducted by the Student Development staff in appropriate cases.
- Agreement in which one or more of the parties involved agrees to accept discipline in the form of a warning, censure, probation, or other such disciplinary action as may be warranted by the circumstances.
- Both the complainant and accused must agree to engage in informal resolution. Either party can end the informal resolution process at any time, for any reason, and begin the process to pursue formal conduct proceedings. The Student Conduct Officer or their designee has the discretion to determine if it would be inappropriate to informally mediate any particular sexual misconduct complaint.

Formal Procedures

Timelines

The University will investigate complaints in a timely manner and aims to complete all sexual misconduct cases within sixty days.

The University aims to complete the Investigative process within the time frame listed below. This time period may be shorter or longer depending on the circumstances including, but not limited to, the complexity of the case and the availability of witnesses. If, for any reason, the investigation is not completed within the time frame, an oral or written explanation will be provided to both the complainant and the respondent.

Investigation Phase 30 days from the complainant making the initial report.

Investigative Report 5 days from the completion of the Investigation.

Review Process 5 days from completion of the Investigative report.

Hearing 14 days within completion of the Investigative report.

Appeals 5 days after the notification of the SMC's decision.

Investigation

This procedure provides a prompt, impartial, fair process for investigating allegations of sexual misconduct. The parties will receive similar, timely access to information during the investigation and will have an equal opportunity to identify witnesses and relevant evidence.

Once a report has been made, an investigation will be conducted. The University aims to complete the investigation within 30 days. At times the investigation may take longer. The University's investigative process is not a criminal investigation, and it does not take away the complainant's right to pursue a criminal investigation. The University process may be conducted separately or congruently with a criminal investigation.

It will be at the complainant's discretion to make a criminal report.

The University will investigate all complaints of sexual misconduct. The steps of the investigative phase are listed below. The investigative team will meet with the Complainant and respondent separately to provide notification of the complaint and the procedures that will follow.

1. The respondent may elect to take responsibility for a violation at the onset of the investigation. The University will still follow the investigative procedures.
2. Respondents may choose not to participate in the investigation; however the investigation will proceed and the findings will be based on all available evidence. Adverse inferences will not be drawn from a respondent's decision not to participate in the investigation.
3. The Investigative Team will investigate the complaint and determine and compile the facts.
 - a. The Investigative Team will meet separately with the complainant and the respondent to gather facts regarding the incident.
 - b. The Investigative Team will ask both the complainant and respondent to provide a list of witnesses and other relevant information. It is at the discretion of the Investigative Team to interview witnesses.
 - c. The Investigative Team may meet with other parties who have information regarding the incident as the Investigative Team so elects.

-
- d. All available information relevant to the complaint will be reviewed, including but not limited to emails, videos, text messages, social media, etc.
 4. The complainant and respondent will meet separately with the Investigative Team to review the Investigative Report. The complainant and respondent will review the report and may:
 - Request that additional information be added to the report.
 - Ask questions or request clarification.
 - Recommend additional witnesses to be interviewed.
 5. The Investigative Team will consider the requests of the complainant and respondent and add clarification to the report, add additional information or interview additional witnesses as the Investigative Team deems reasonable.
 6. If any changes are made to the report the complainant and respondent will again review the report. Once the report is reviewed by both parties and no additional changes need to be made as determined by the Investigative Team, the report will be presented the SMC hearing panel. The SMC hearing panel may:
 - Accept the report.
 - Request clarification and ask questions.
 - Request that additional information be gathered.
 7. If additional information is requested by the hearing panel the Investigative Team will gather the information and repeat steps 4, 5, and 6.
 8. Once the Investigative Report is accepted by the SMC hearing panel, a hearing will be scheduled.

Standard for Determining Responsibility

The standard of proof used to determine accountability is the preponderance of the evidence. The preponderance of evidence considers whether it is more likely than not that there was a violation of the policy.

Sexual Misconduct Committee

The Sexual Misconduct Committee is the University body charged with resolving complaints of student-to-student sexual misconduct. The committee is composed of trained staff and administrators. Each sexual misconduct complaint is heard and adjudicated by a hearing panel of three representatives drawn from the full membership of the SMC by the Title IX Coordinator. A chairperson of the hearing committee will be designated by the Title IX Coordinator.

Sexual Misconduct Committee Chair -

The chair, appointed by the Title IX Coordinator, is a non-voting member who facilitates the process.

Purpose of the Hearing

The goals of the hearing are: a) to allow both the complainant and the respondent the opportunity to present their experiences, discuss the investigative summary, and to ask questions pertinent to the incident(s) in question; b) to have the matter considered and decided by an impartial panel; This process is intended to determine whether there was a violation of University Policy. It is not a legal procedure.

Electronic Devices.

A respondent, complainant, advisor, and/or witness may not bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room, unless authorized by the hearing panel. The Office of Student Conduct will make an audio recording of the hearing to be kept on file for three years. Reasonable care will be taken to create a quality audio recording and minimize technical problems; however, technical problems that result in no recording or an inaudible one will not be a valid argument for appeal

Investigative Report

The Investigative Report will be compiled by the Investigative Team, will be maintained in a confidential manner, and will be made available for review by the hearing committee and complainant and respondent prior to the hearing. The Investigative Report may include, but is not limited to the following:

Complainant's statement

Respondent's statement

Witness statement(s)

Investigative Summary

Pertinent policies

Other documents utilized by the Investigative Team that the team deems relevant.

The Investigative Report is made up of confidential information. Therefore, the complainant and respondent may review the Report, but it will not be copied, and may not be removed by any party. Those reviewing the Investigative Report will be permitted to take notes.

Hearing Process

Hearings are conducted in private and are not open to members of the University community or the public.

The University recognizes that participation in a hearing may be difficult for those involved; the hearing can be set up such that the complainant and the respondent will have minimal interaction during the hearing or will not be in the hearing room at the same time.

The order of a hearing will be determined by the Chair of the hearing committee, but will generally follow this outline:

- 1) The Chair will call the meeting to order and state the purpose of the hearing: to determine whether there has been a violation of the University's policy.
- 2) The complainant and respondent may have an advisor present during the hearings. The advisor has no speaking role and may not address the hearing panel or be disruptive to the hearing process.
- 3) Introductions—each person involved in the hearing will be introduced.
- 4) The Investigative Team presents the Investigative Summary. The hearing panel may ask clarifying questions and identify areas of agreement and dispute.

-
- 5) The complainant and respondent will be invited to present a brief statement of the facts to the hearing panel, if they so choose. (impact statements are not permitted at this time)
 - 6) Members of the hearing panel may ask questions of the complainant and respondent.
 - 7) The complainant and respondent may ask questions of each other through the chair of the hearing committee. The chair will determine if a question is relevant and appropriate.
 - 8) The Chair will ask for the members of the hearing panel to determine whether any additional clarification or information is needed from the complainant, respondent, investigator or witnesses.
 - 9) The hearing panel will go into closed session to determine whether a violation of policy was committed.
 - 10) The decision of the hearing panel that a violation occurred or did not occur will be reached by a majority vote utilizing the preponderance of evidence standard (“more likely than not”).
 - 11) If the respondent is found to have violated the sexual misconduct policy the Title IX Coordinator or his or her designee shall impose a sanction. The sanction will be based on consideration of the specifics facts of the case itself and relevant factors such as prior disciplinary history.
 - 12) The Title IX Coordinator will direct the investigative team to meet separately with each party to deliver the outcome of the hearing, explain any sanctions, and inform the students of the appeal process. Both parties will also receive the outcome in writing.

Impact Statements

Within two business days of a finding of responsibility by the Sexual Misconduct Hearing Panel, both the complainant and the respondent may submit an impact statement before sanctions are imposed. The impact statement may be no more than three pages and should be submitted to the Title IX Coordinator.

Sanctions

When considering sanctions the Title IX Coordinator or his or her designee will consider whether the sanction will: (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation on the complainant and the University community.

The following represent the range of sanctions. Possible sanctions are not limited to those listed below. Sanctions may be combined.

Change of Housing	Relocation to a new housing assignment.
Community Service	Assignment of a number of service hours to be completed within the campus community or the general community.
Counseling	Students may be required to attend counseling on or off campus. If mandated to attend counseling off campus the student will be responsible for any expenses or costs.

Probation	Students will be placed on probation for a specific period of time. During the time if there are additional violations they may be dismissed from the University
Formal Apology	A written statement in which the student reflects and apologizes for their behavior.
Education	Students may be required to participate in an educational program or experience.
No-Contact Order	A directive that mandates a student not to contact another student. A no-contact order includes contact, including in person, via e-mail, telephone, text messaging, Facebook or any other method of electronic or direct communication. The order also includes third parties acting on the person's behalf. It warns the student that any contact could be considered a violation of University policy
Restitution	Students may be required to pay for damages or other expenses.
Restricted Campus Access	Students may be restricted from entering buildings on campus, from registering for certain courses or from participation in activities.
Suspension	The student may be excluded from participation in any academic or other activities of the University for a specified period. Students who have been suspended from the University forfeit all University fees, are withdrawn from University courses contingent on the academic calendar (if after the withdrawal date, students receive F grades), and are not permitted on campus or at University-sponsored events without the permission of the University Student Conduct Officer. Students who are suspended are permitted to reapply to the University as long as they fulfill all requirements of the suspension.
Expulsion	Expulsion is permanent exclusion of the University. Students who have been expelled forfeit all University fees, are withdrawn from University courses contingent on the academic calendar (if after the withdrawal date, students receive F grades), and are not permitted on campus without the permission of the University Student Conduct Officer. Students who are expelled are not permitted to reapply at the University.

Appeal Process

Under the Sexual Misconduct Policy, either party has a right to appeal. An appeal must be filed with the Associate Vice President for Student Development and Engagement (AVPSDE) or his or her designee within five University business days of the notification of the outcome by the investigative team.

Appeals filed outside of this time period will not be considered. The opposing party will be notified if an appeal has been filed.

Appeals of the Sexual Misconduct Committee decision may only be made based on:

Procedural Error: alleging there was a deviation or change from the procedures outlined in the Sexual Misconduct disciplinary Process which adversely impacted the outcome of the matter.

New Evidence: alleging that new evidence has become available which could have impacted the outcome of the disciplinary complaint. Under this basis, the Notice of Appeal must include: (i) the new evidence; (ii) an explanation as to why it was unavailable prior to the SMC's decision; and (iii) a showing of how the new evidence could altered the outcome.

Severity of Sanction: alleging the sanctions imposed are substantially disproportionate to the severity of the violation.

The student(s) must submit the written petition for appeal to the AVPSDE or his or her designee specifying one or more of the above grounds. A request on any of these grounds must clearly explain, in detail, the basis for the appeal and should include any available documentation. The appeal is limited to an inquiry of the issue or issues raised in the complaint.

The Investigators will notify the party who did not request the appeal in writing and that party will have three University business days from the date of notification to review and submit a response to the appeal.

The AVPSDE will act on the petition for appeal in one of three ways:

1. Decide that the appeal is without merit; dismiss it; and uphold the finding; or
2. Decide that appeal has merit and either:
 - a) Modify the finding of the committee; or
 - b) Set aside the finding of the committee altogether and instruct the Committee to correct the procedural error and or consider the new evidence and submit a new finding. If necessary, refer the Committee's new finding to the AVPSDE for sanctioning.
 - c) Modify the sanction.

The decision of the AVPSDE will be final and not subject to appeal.

Support and Resources:

There are several University offices available to assist members of the Gannon community who have experienced harm on or off campus including the Gannon Police and Safety, University Health and Counseling Services and the Division of Student Development and Engagement.

Day-time Campus Resources (Mon. to Fri. 8 a.m. to 4 p.m.)

- University Police 814-871-7690 (24-Hours)
- Counseling Services 814-871-7622
- Health Services: 814-871-7622
- Campus Ministry 814-871-7435

24-Hour Resources outside of the University system:

- SafeNet 814-455-1774 (24-hr. Crisis Hotline: 814-454-8161)-Relationship Violence
- Erie Crime Victim Center 814-455-9414 (Crisis or Sexual Violence Advocate 1- 800-352-7273)
- Erie Police Department: 814-879-1125 or 911
- UPMC Hamot: 814-877-6000
- UPMC Crisis Network: 1-888-796-8226
- St. Vincent Hospital: 814-452-5000 (ask for Emergency Dept.)