

Villanova University

Sexual Assault, Sexual Harassment, and Sexual Misconduct Policy

- I. Introduction
- II. Prohibited Conduct and Definitions
- III. How to Report an Incident of Sexual Assault, Sexual Harassment, or other Sexual Misconduct

Appendices

[Appendix A: Campus and Community Resources, Confidential and Non-Confidential](#)

[Appendix B: Interim Measures to Protect Safety and Well-Being](#)

[Appendix C: Title IX Notice](#)

[Appendix D: Notice of Non-Discrimination](#)

[Appendix E: Prevention and Education Efforts](#)

I. INTRODUCTION

Villanova University seeks to foster and maintain a community of mutual respect and concern for all of its members. There can be no greater violation of the terms of that community, or of the essential dignity of any member of it, than an act of sexual assault, sexual harassment, or other sexual misconduct. These acts constitute the deepest affront to University standards and will not be tolerated in any form.

All members of this community – students (current and applicants), faculty, staff, applicants for employment, persons doing business with or acting on behalf of the University, and visitors to campus – are protected under this Policy and share in responsibility for creating and maintaining an environment that promotes the safety and dignity of each person. Towards that end, this Policy provides the framework for eliminating sexual assault, sexual harassment, and other sexual misconduct from our community, preventing its recurrence, and addressing its effects.

Under Title IX of the Education Amendments of 1972 (Title IX), sexual assault and other forms of sexual misconduct are forms of sexual harassment and are prohibited. Any person found responsible for such violations will face disciplinary actions up to and including dismissal or expulsion from the University. Acts of sexual assault or sexual misconduct may also be prosecuted under the Pennsylvania Criminal Code. This Policy applies to all on-campus conduct, as well as any off-campus conduct that has an adverse impact on any member of the University community or the University.

Should an incident of sexual assault, sexual harassment, or other sexual misconduct occur, the University has both reporting procedures and support resources in place so that an individual does not need to face the effects of such an incident alone. The first concern is for the safety, health, and well-being of those affected. Confidential and non-confidential (yet private) options for support and reporting are available both on and off campus (Section III & Appendix A).

The University strongly encourages reporting of the incident to campus Public Safety or the Sexual Assault Resource Coordinator and/or to local law enforcement (Section III). When an incident is reported, the University will respond promptly and equitably to all allegations of sexual assault, sexual harassment, or other sexual misconduct to ensure the safety of the reporting person and the Villanova community, in order to provide an environment that is free from gender and sex discrimination. Finally, *all* University employees, except those who must maintain confidentiality by law (see Appendix A), are expected, and in some cases required, to report sexual assault, sexual harassment, and other sexual misconduct to the University authorities designated in this Policy.

Anyone making a report, filing a complaint, or participating in the investigation or resolution of an allegation of a sexual assault, sexual harassment, or other sexual misconduct is protected by law and this Policy from retaliation (see Section II.A.). The University will take prompt responsive action to any retaliation.

When used in this Policy, a Complainant refers to the person who reports that he or she has been the subject of sexual assault, sexual harassment, or other sexual misconduct. A Respondent is the person who is reported to have committed acts of sexual assault, sexual harassment, or other sexual misconduct.

II. PROHIBITED CONDUCT AND DEFINITIONS

The University expects all members of the Villanova community to conduct themselves in a manner consistent with the Villanova Mission Statement and its *Enduring Commitments* available [here](#), the *Environmental and Relational Expectations* as described in the Code of Student Conduct, the Human Resources Handbook, and the Faculty Handbook.

Villanova University prohibits sexual assault, sexual harassment, and other sexual misconduct.

A. PROHIBITED CONDUCT

SEXUAL ASSAULT. Sexual assault is having or attempting to have sexual intercourse or sexual contact with another individual without consent. This includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where an individual does not consent to the sexual act, or where an individual is incapacitated. Sexual assault includes the following acts:

- **Attempted or Actual Penetrations:** Having or attempting to have non-consensual vaginal, anal, or oral penetration, however slight, with any object or body part, with another person.
- **All Other Forms of Non-Consensual Sexual Contact:** Having or attempting to have any non-consensual, non-accidental touching of a sexual nature. This touching can include, but is not limited to, kissing or touching the private parts of another, or causing the other to touch the harasser's private parts.

Consent and related terms are defined in part B. of this section.

SEXUAL EXPLOITATION. Sexual exploitation is an act or omission to act that involves taking non-consensual, unjust, humiliating, or abusive sexual advantage of another, either for his or her own advantage or to benefit or advantage anyone other than the Complainant. Examples of sexual exploitation include but are not limited to the following:

- Creating a picture(s), movie(s), webcam, tape recording(s), graphic written narrative(s), or other means of memorializing sexual behavior or a state of undress of another person without the other's knowledge and consent;
- Sharing items described in the paragraph above beyond the boundaries of consent where consent was given. For example, showing a picture to friends where consent to view it was given for oneself only;
- Observing or facilitating observation by others of sexual behavior or a state of undress of another person without the knowledge and consent of that person;

- “Peeping Tom” or voyeuristic behaviors;
- Engaging in sexual behavior with knowledge of an illness or disease (HIV or STD) that could be transmitted by the behavior without full and appropriate disclosure to the partner(s) of all health and safety concerns;
- Engaging in or attempting to engage others in “escort services” or “dating services” which include or encourage in any way sexual behavior in exchange for money;
- Intentionally, knowingly, or surreptitiously providing drugs or alcohol to a person for the purpose of sexual exploitation; or
- Exposing another person to pornographic material without the person’s advance knowledge or consent.

STALKING. Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety, or the safety of others, or suffer substantial emotional distress. This includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or make unwelcome contact with another person.

SEXUAL HARASSMENT. Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other physical, visual, or verbal behavior of a sexual nature where:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or education; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting the individual; or
- Such conduct has the purpose or effect of:
 - Unreasonably interfering with an individual’s academic or professional performance; or
 - Creating an intimidating, hostile, or demeaning employment or educational environment.

A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need to show a repetitive series of incidents to provide a hostile environment, particularly if the harassment is physical.

Examples of potentially sexually harassing behaviors include, but are not limited to, the following:

- Unwelcome sexual advances, sexual innuendo, or requests for sexual favors in person, by phone, by electronic message or photo, written words or images such as graffiti, and social media postings;
- Unwelcome behavior of a sexual nature by a faculty member, coach, or other staff person directed towards a student, a colleague, or other community member;

- A person in a position of authority (such as a faculty member, coach, supervisor) suggesting that an educational or employment benefit will result from submission to some unwelcome behavior of a sexual nature or will be denied for refusal to engage in sexual activity;
- Repeated sexual remarks, offensive stories, remarks about sexual activity or experiences, sexual innuendoes or other suggestive comments that are unwanted and unwelcome by another;
- Displaying or showing pictures, cartoons, or other printed materials of a sexual nature in the workplace or in an educational setting where there is insufficient academic relevance;
- Exposing the private parts of one's body to another person, or in public forums.

INTIMATE PARTNER VIOLENCE. Intimate partner violence is also sometimes known as dating violence, domestic violence, or relationship violence. The University recognizes that sexual assault, sexual exploitation, sexual harassment, stalking, and retaliation may all be forms of intimate partner violence when committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. In general, intimate partner violence includes physically, sexually, and/or psychologically abusive behavior that arises in the form of a direct violent act, or indirectly as acts that expressly or implicitly threaten violence. Intimate partner violence also occurs when one partner attempts to maintain power and control over the other through one or more forms of abuse, including sexual, physical, verbal, or emotional abuse. Intimate partner violence affects individuals without regard to gender or sexual orientation, and does not discriminate by racial, social, or economic background.

RETALIATION. Retaliation is defined as attempts or acts to seek retribution including, but not limited to, any form of intimidation, reprisal, harassment, or intent to prevent participation in University proceedings under this Policy. Retaliation may include continued abuse or violence, other harassment, and slander and libel. Retaliation may be committed by any individual or group of individuals, not just a Respondent or Complainant, and may be committed against the Complainant, Respondent, or any individual or group of individuals involved in the investigation and/or resolution of an allegation of sexual assault, sexual harassment, or other sexual misconduct.

B. DEFINITION OF CONSENT and related terms.

CONSENT: Consent is an explicitly communicated, reversible mutual agreement in which all parties are capable of making a decision. Consent is informed, voluntary, and actively given. Consent exists when all parties exchange mutually understandable affirmative words or behavior indicating their agreement to participate voluntarily in sexual activity.

The following further clarifies the meaning of consent:

- Each participant in a sexual encounter must obtain consent for all sexual activities. Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity.
- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.

- If at any time it is reasonably apparent that either party is hesitant, confused, or unsure, both parties should stop and obtain mutual verbal consent before continuing such activity.
- Consent 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.
- An individual who is physically incapacitated from alcohol or other drug consumption (voluntarily or involuntarily), or is unconscious, unaware, or otherwise physically impaired is considered unable to give consent. For example, one who is asleep or passed out cannot give consent.
- Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.

COERCION: Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would compromise an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact. Coercion includes the use of pressure and/or oppressive behavior, including express or implied threats of harm or severe and/or pervasive emotional intimidation, which (a) places an individual in fear of immediate or future harm or physical injury or (b) causes a person to engage in unwelcome sexual activity. A person's words or conduct amount to coercion if they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity. Coercion also includes administering a drug, intoxicant, or similar substance that impairs the person's ability to give consent.

INCAPACITATION: An individual is incapacitated when he or she is not able to make rational, reasonable judgments and therefore is incapable of giving consent. Incapacitation is the inability, temporarily or permanently, to give consent, because the individual is mentally and/or physically impaired due to alcohol or other drug consumption, either voluntarily or involuntarily, or the individual is unconscious, asleep, or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if he or she demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, being unaware of circumstances or surroundings, or being unable to communicate for any reason.

An individual in a blackout state may or may not meet the definition of incapacitation. Such an individual may appear to act normally, but later may not have recall of the events in question. The extent to which a person in this state affirmatively gives words or actions indicating a willingness to engage in sexual activity and the other person is unaware – or reasonably could not have known – of the alcohol consumption or blackout, must be evaluated in determining whether consent could be considered as having been given.

ALCOHOL and OTHER DRUGS. The University considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and other drugs impair a person's decision-making capacity, awareness of the consequences, and ability to make informed judgments. From the perspective of the Complainant, the use of alcohol or other drugs can limit a person's ability to freely and clearly give consent. From the perspective of a Respondent, the use of alcohol or other drugs can create an atmosphere of confusion over whether or not consent has been freely and clearly sought or given. The perspective of a reasonable person will be the basis for determining whether a Respondent should have

been aware of the extent to which the use of alcohol or other drugs impacted a Complainant's ability to give consent.

Being intoxicated or impaired by alcohol or other drugs is never an excuse for sexual assault, sexual harassment or other sexual misconduct and does not diminish one's responsibility to obtain consent.

III. HOW TO REPORT AN INCIDENT OF SEXUAL ASSAULT, SEXUAL HARASSMENT, OR OTHER SEXUAL MISCONDUCT

The University requires all University employees who have a responsibility for student welfare or are in a position of authority (unless required to maintain confidentiality by law), and strongly encourages all other Villanova community members, to report information about any incident of sexual assault, sexual harassment, or other sexual misconduct involving a student, staff or faculty member, regardless of where and when the incident happened. In addition, those employees who have been informed by the Department of Public Safety that they are "campus security authorities" under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") are legally required to report such incidents to the Department of Public Safety. All such employees to whom an incident is reported should strongly encourage the reporting party, whether it is the Complainant or a third party, to speak directly with the Office of Public Safety, the Sexual Assault Resource Coordinator, or the Title IX Coordinator.

A Complainant does not have to decide whether or not to request any specific action by the University at the time the report is made, nor is there a time limit on reporting. Villanova is committed to supporting the rights of a person reporting an incident of sexual assault, sexual harassment, or other sexual misconduct to make an informed choice among options and services available.

The University will respond to all reports in an integrated, consistent manner that treats each individual with dignity and respect and will take prompt responsive action to end the misconduct, prevent its recurrence, and address its effects.

CONFIDENTIALITY AND PRIVACY CONSIDERATIONS.

A. Confidential Resources

Students or employees wishing to obtain confidential assistance or access to campus resources without making a report to the University may do so by speaking with professionals who are obligated by law to maintain confidentiality, subject to the stated terms of confidentiality by that resource office. These professionals include nurses in the Student Health Center, counselors in the Holloway University Counseling Center, members of the clergy receiving the information in a manner protected by state law or who are pastoral counselors, and the Employee Assistance Program. See Appendix A

B. Confidentiality Considerations

If a Complainant makes a report of sexual assault, sexual harassment, or other sexual misconduct to the University, but requests that his or her name or other identifiable information not be shared with the Respondent or that the University not pursue an investigation or take any other action, the University will balance this request with its obligation to protect the Complainant and provide a safe and non-discriminatory environment for all University community members.

The University will take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or request not to pursue an investigation, but its ability to respond may be limited by the

request for confidentiality. The University will weigh the request for confidentiality against the following factors: the seriousness of the alleged conduct, any potential threats to community safety, the respective ages and positions of the Complainant and the Respondent, whether there have been other complaints against the Respondent, and the Respondent's right to receive information under applicable law. At all times, the University will seek to respect the request of the Complainant, and where it cannot do so, the University will keep the Complainant informed about the University's chosen course of action.

Even if the University cannot take disciplinary action against a Respondent because of a Complainant's request for confidentiality, it will endeavor to pursue such steps as it deems appropriate in its discretion to limit the effects of the alleged misconduct and to aid in the prevention of its recurrence.

C. Anonymous Reporting

A Complainant may report an incident without disclosing his/her name, identifying the Respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, however, the University's ability to respond may be limited. All anonymous reports will be referred to the Title IX Coordinator.

D. Privacy Considerations

The University is committed to protecting the privacy of all individuals involved in a report of sexual assault, sexual harassment, or other sexual misconduct. Information related to a report to the University of sexual assault, sexual harassment, or other sexual misconduct will be kept private by the University unless disclosure is required by law; thus, it will be shared only with those University officials with a legitimate interest in order to assist in the investigation and/or in the resolution of the complaint. Under no circumstances will the University release the name of the Complainant to the general public without the express consent of the Complainant.

MAKING A REPORT

A Complainant may report to the Sexual Assault Resource Coordinator, the Department of Public Safety and/or to local law enforcement. The individual may pursue a complaint through the criminal process or through the University disciplinary process consecutively or concurrently. In instances of sexual harassment as defined on page 3, a Complainant may also report to the Sexual Harassment Complaint Officer, identified in the [Title IX Notice](#) (and included in Appendix C of this Policy).

The University encourages individuals to seek immediate medical treatment and to make a prompt report to law enforcement in response to an incident of sexual assault or other sexual misconduct in order to address immediate safety concerns, allow for the preservation of evidence, and trigger a prompt investigative and remedial response. When the incident is reported to a campus resource, the University will help the individual get to a safe place and assist the Complainant in seeking immediate medical attention or in reporting an allegation to local law enforcement. The University will provide transportation to the hospital, assist with notification of local law enforcement, and provide information about the University's resources and complaint process. The University will also provide appropriate interim measures, as needed, to help ensure the safety and well-being of the parties affected. See Appendix B for more details on Interim Measures.

Reporting Options and Medical Care:

Villanova University

Department of Public Safety 610-519-4444 (emergency) | 610-519-6979 (non-emergency)
Elisa Lopez, Investigator 610-519-6670 elisa.lopez@villanova.edu (On-Call 24/7)

Sexual Assault Resource Coordinator 610-519-7408 office (On-Call 24/7)

Local Law Enforcement**911****Radnor Police Department** | 610-688-0503**Lower Merion Police Department** | 610-649-1000**Conshohocken Police Department** | 610-828-4032/4033**Upper Merion Police Department** | 610-265-3232**Tredyffrin Police Department** | 610-647-1440**Medical or Hospital Care****Villanova Student Health Center** | 610-519-4070**Bryn Mawr Hospital** | 484- 337-3000**Lankenau Medical Center** | 484-476-2000**Philadelphia Sexual Assault Response Center** | 215-425-1625

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 local law enforcement. A medical provider can provide emergency and/or follow-up medical services, which has two goals: first, to diagnose and treat the full extent of any injury or physical effect and second, to properly collect and preserve evidence. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence for proof of a criminal offense. In the event of a report immediately following an incident of sexual assault, a Complainant is encouraged to not shower, bathe, douche, brush teeth, drink, or change clothing prior to seeking medical treatment. Similarly, any clothing 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 action.

Please note that under Pennsylvania law, a medical provider may be required to notify law enforcement of a reported sexual assault under most circumstances. Although the medical provider will provide information to law enforcement, the Complainant may decline to speak with a law enforcement officer or participate in a criminal prosecution.

ON-CAMPUS REPORTING / University Disciplinary Process**A. In General**

When an incident of sexual assault, sexual harassment, or other sexual misconduct is reported to a campus authority, the University will designate an investigator of its choosing. The Director of Public Safety or his/her designee will typically oversee the investigation of all reports involving a sexual assault or where the Respondent is a student. The Sexual Harassment Complaint Officer or his/her designee will typically oversee the investigation of all reports (other than a sexual assault) involving a Respondent who is a University employee (faculty or staff). Normally, the investigation will include interviewing the parties, interviewing witnesses as appropriate, and collecting relevant documentary, electronic, or other evidence.

At the conclusion of the fact-finding investigation, findings are shared with the University authorities empowered to act on violations of University policy. The specific resolution process will be determined by the role of the Respondent, as specified in this Policy:

- Complaints of sexual assault, sexual harassment, or other sexual misconduct against a student will be addressed under the Code of Student Conduct. For non-Law students, these procedures are set forth in full in the [Code of Student Conduct](#). For Law students, the procedures are set forth [here](#).

- Complaints of sexual harassment against any faculty member or other employee will be addressed under the [Sexual Harassment Complaint Procedures](#).

For additional information on reporting, see the [Title IX Notice](#), also included here in Appendix C.

B. Time Frame for Resolution

Generally speaking, the University will complete the investigation and resolution of all reports within 60 calendar days of receiving a complaint. A Complainant and Respondent can expect to receive periodic updates as to the status of the review or investigation. Each case is unique, and the process for handling the incident will be impacted by factors such as the complexity of the investigation, the scope of the allegation, the parties' schedules and availability, and the academic calendar. In the event that the investigation and resolution exceed this 60-day time frame, the University will notify all parties of the need for additional time and best efforts will be made to complete the process in a timely manner. In no case will these time frames delay University-provided support services, resources or other measures.

C. Timely Warning

If a report under this Policy discloses a serious or continuing threat to the University campus community, the University may issue a timely warning to the community to protect the health or safety of the broader campus community. Any such warning to the campus community, when determined by the University to be appropriate under the circumstances, is limited to a brief account of the incident, a description of the assailant when needed to apprehend, and the name of any individual who has been arrested and charged with a crime.

REPORTING TO LOCAL LAW ENFORCEMENT

The University process and the criminal justice process are separate and independent courses of action. A Complainant who wishes to pursue a criminal complaint is encouraged to make a report to local law enforcement. Incidents occurring on campus are within the jurisdiction of Radnor Township. Actions occurring off campus are within the jurisdiction of one of several surrounding townships, most of which are listed above (section III "Reporting Options"). If the Complainant does not know in which township the incident occurred, the Complainant should contact the Sexual Assault Resource Coordinator, Public Safety or 911 for assistance. Upon request, the Sexual Assault Resource Coordinator or a representative of the Department of Public Safety will accompany a Complainant to the local police department and assist a Complainant in making a criminal report. Notifying local law enforcement will generally result in the Complainant, and in some cases the Respondent, being contacted by a police officer. The police will determine if a criminal investigation will occur and if the case will be referred for prosecution. Unless there are compelling circumstances, the University will typically not file an independent police report without the consent of the Complainant.

Other Potential Code of Student Conduct Violations

Consistent with the University's Mission and belief that all members have an obligation to promote and protect the health, safety, and welfare of our community, the University strongly encourages all individuals to report sexual assault, sexual harassment, and other sexual misconduct so that those affected can receive support and resources. A student who reports such misconduct, either as a Complainant or a third party witness, will not be subject to disciplinary action for his/her own personal consumption of alcohol or other drugs in violation of the University's *Environmental Expectations* as described in the Code of Student Conduct. The University may, however, initiate an educational discussion about the use of alcohol or drugs and their impact or pursue other educational remedies.

Bystander Intervention

The University strongly encourages all community members to take reasonable and prudent actions to prevent or stop an act of sexual assault, sexual harassment, or other sexual misconduct. Taking action may include direct intervention, calling Public Safety or law enforcement, or seeking assistance from a person in authority.

Community members who choose to exercise this positive moral obligation will be supported by the University and protected from retaliation.

False Reports

Submission of a good faith complaint, concern, or report under this Policy will not affect a Complainant's employment, grades, academic standing, or work assignments. However, an individual found to have made a false complaint or report, or to have knowingly and willingly given false information during an investigation, will be subject to disciplinary action. A good faith complaint that is not substantiated does not constitute a false report.