

	<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b> <b>Department of Physician Assistant</b>	<i>Policy Number</i>	PHAS - 013
		<i>Effective Date</i>	08/01/2022
Howard University College of Nursing and Allied Health Sciences	<b>Student Allegations of Misconduct Policy (A3.15f)</b>		

Table of Contents	Page Number
I. PURPOSE	1
II. POLICY	1
III. DEFINITIONS	1
IV. PROCEDURES	2

**I. PURPOSE**

To establish the process to manage student allegations of misconduct.

**II. POLICY**

It is the practice and procedure of the Howard University Physician Assistant Department to adopt the University Title IX policy manage student allegations of misconduct. ([Title IX Policy | Howard University](#))

**III. DEFINITIONS**

**Sexual Harassment I** - This category of prohibited conduct includes sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as conduct on the basis of sex that satisfies one or more of the following:

- 1) An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo).
- 2) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity; or
- 3) Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

**Sexual Assault** is an offense classified as a sex offense in the uniform crime reporting system of the Federal Bureau of Investigation. Sex offenses are any sexual act including Rape, Sodomy, Sexual Assault with An Object, or Fondling directed against another person, without the consent of the person, including instances where the person is incapable of giving consent and includes other unlawful sexual intercourse. The following definitions apply:

**Rape (Except Statutory Rape)** – Any act of vaginal or anal intercourse or penetration, however, slight, by a person’s penis, finger, or other body part or oral-genital contact, without the consent of the Complainant, including instances in which the person is incapable of giving consent.

	<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b> <b>Department of Physician Assistant</b>	<i>Policy Number</i>	PHAS - 013
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**Sodomy** – Oral or anal sexual assault with another person, without the consent of that person, including instances where the person is incapable of giving consent because of the person’s age or because of the person’s temporary or permanent mental or physical incapacity.

**Sexual Assault with An Object** - The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the person, including instances where the person is incapable of giving consent because of the person’s age or because of the person’s temporary or permanent mental or physical incapacity.

**Fondling** - The touching of the private body parts of another person (buttocks, groin, genitals, breasts), for the purpose of sexual gratification without the consent of the person, including instances where the person is incapable of giving consent because of the person’s age or because of the person’s temporary or permanent mental or physical incapacity.

**Incest** - Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape** - Non-forcible sexual intercourse with a person who is under the statutory age of consent of 16.

**Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

**Domestic Violence** includes violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of the District of Columbia or Maryland.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. Substantial emotional distress may not necessarily require medical or other professional treatment or counseling.

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**Sexual Harassment II:** This category of prohibited conduct incorporates the definition of Sexual Harassment I, as well as sexual harassment that may not meet the definitions provided in Sexual Harassment I above. It includes unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when:

- 1) submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of a person’s instruction, academic standing, employment or participation in any University program, activity, or benefit; or submission to, or rejection of, such conduct is used as a basis for evaluation in making academic or personnel decisions; or
- 2) such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive, both subjectively and objectively, that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University’s educational, employment, residential, and/or campus experience.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

Examples of Sexual Harassment - The following non-exhaustive examples are illustrative of conduct that, if proven, may be considered by the University to establish sexual harassment:

- 1) unsolicited, unwelcomed flirtations, advances, and/or propositions of a sexual nature.
- 2) insults, jokes, or anecdotes that belittle or demean an individual or a group's sexuality, gender, gender identity, gender expression, non-conformance with gender stereotypes, or sexual orientation.
- 3) unwelcomed sexually oriented gestures, verbal expressions, or comments of a sexual nature about an individual's body, clothing, or sexual experience.
- 4) inappropriate displays of sexually suggestive objects or pictures.
- 5) unnecessary and inappropriate touching, such as hugging, or brushing against an individual's body, patting, pinching,
- 6) suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments, status, salary, academic standing, grades, receipt of financial aid, or letters of recommendation.

	<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b> <b>Department of Physician Assistant</b>	<i>Policy Number</i>	PHAS - 013
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<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b>	<b>Student Allegations of Misconduct Policy (A3.15f)</b>		

**Sex or Gender-Based Discrimination or Harassment** - Any intentional or unintentional act that results in an individual being excluded from participation in, denied the benefits of, or that otherwise adversely affects a term or condition of the individual’s employment or education based upon the individual's sex, gender, gender identity, gender expression, non-conformance with gender stereotypes, or sexual orientation.

**Gender-Based Discrimination or Harassment** may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts are not of a sexual nature.

- Harassment is a form of discrimination that encompasses unwelcome conduct on the basis of the individual's sex, gender, gender identity, gender expression, non-conformance with gender stereotypes, or sexual orientation when:
  - submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of a person’s instruction, academic standing, employment or participation in any University program, activity, or benefit; or
  - submission to, or rejection of, such conduct is used as a basis for evaluation in making academic or personnel decisions; or
  - such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive, both subjectively and objectively, that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University’s educational, employment, residential and/or campus experience.

As used in this policy, sex, gender, gender expression, gender identity, and sexual orientation are defined as follows:

**Sex** - Assigned or Assumed Sex or Sex Assigned at Birth.

**Gender** - A social construct used to classify a person as a man, woman, or some other identity.

**Gender Identity** - A person's self-conception of being a man or woman, boy or girl, transgender, or gender fluid.

**Gender Expression** - The physical manifestation of one's gender identity, usually expressed through clothing, grooming, mannerisms, chosen names, and social interactions that associate with the social definitions of masculinity and femininity, rather than birth sex.

**Sexual Orientation** - An individual's natural preference when developing emotional and/or sexual relationships with people of the same sex (homosexual relationships), opposite sex (heterosexual relationships), or either sex (bisexual relationships).

Examples of Sex or Gender-Based Discrimination or Harassment - Specifically, under this policy, in providing any aid, benefit, or service to a student or employee, no person shall, on the basis of sex, gender, gender identity, gender expression, non-conformance with gender stereotypes, or

	<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b> <b>Department of Physician Assistant</b>	<i>Policy Number</i>	PHAS - 013
		<i>Effective Date</i>	08/01/2022
<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b>	<b>Student Allegations of Misconduct Policy (A3.15f)</b>		

sexual orientation:

- 1) treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service.
- 2) provide different aid, benefits, or services, or provide aid, benefits, or services in a different manner.
- 3) deny any person any aid, benefit, or service.
- 4) subject any person to separate or different rules of behavior, sanctions, or other treatment.
- 5) apply any rule concerning the domicile or residence of a student or applicant, including eligibility for fees and tuition.
- 6) aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex, gender, gender identity, gender expression, non-conformance with gender stereotypes, or sexual orientation; or
- 7) otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

**Sexual Exploitation** - Any act where one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another without their consent. Sexual exploitation may include, but is not limited to:

- Surreptitiously 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.
- Recording, photographing, transmitting, showing, viewing, streaming, or distributing intimate sexual images, audio recordings, or sexual information without the knowledge or consent of all parties involved; or
- Exposing one’s genitals or inducing another to expose their own genitals in non-consensual circumstances.

**Retaliation** - This policy prohibits acts or words taken against an individual or group of individuals involved in a protected activity. Protected activity includes making a good faith report under this policy; filing an external complaint; supporting a Complainant or Respondent; or opposing in a reasonable manner and consistent with University policy an action reasonably believed to constitute a violation of this policy. Retaliation may also include acts or words taken against an individual or group of individuals because they have participated in proceedings under this policy. Retaliation can take many forms including, but not limited to, adverse action or violence, threats, and intimidation that would discourage a reasonable person (under similar circumstances and with similar identities to the Complainant) from engaging in protected activity. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the

	<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b> <b>Department of Physician Assistant</b>	<i>Policy Number</i>	PHAS - 013
		<i>Effective Date</i>	08/01/2022
<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b>	<b>Student Allegations of Misconduct Policy (A3.15f)</b>		

working, academic, or living environment of an individual, or if they hinder or prevent the individual from effectively carrying out their University responsibilities. All individuals and groups of individuals are prohibited from engaging in retaliation and will be held accountable under this policy. Charges against an individual for code of conduct violations that do not involve sex or gender-based discrimination or sexual misconduct but arise out of the same facts or circumstances as a report or complaint of sex or gender-based discrimination, or a report or complaint of sexual misconduct, for the purpose of interfering with any right or privilege secured by Title IX and/or this policy, constitutes retaliation. Concerns or questions about retaliation should be immediately reported to a Title IX Officer.

**Complicity** – Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.

#### **IV. PROCEDURES**

- A. The Title IX Office will gather information about the reported conduct and respond to any immediate health or safety concerns raised by the report.
- B. The Title IX Office will assess the Complainant’s safety and well-being, offer the University’s immediate support and assistance, and assess the nature and circumstances of the report to determine whether the reported conduct raises a potential policy violation, whether the reported conduct is within the scope of this policy, and the appropriate method of resolution under this policy.
- C. The Title IX Coordinator may consult with the University’s threat assessment team or other University administrators as part of the initial assessment. As part of the initial assessment, the Title IX Office may:
  - Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the Complainant, the Respondent, any witness, and/or any other individual with knowledge of the reported incident.
  - Address immediate physical safety and emotional well-being.
  - Notify the Complainant of their right to contact (or decline to contact) law enforcement or seek a civil protection order.
  - Notify the Complainant of the right to seek medical treatment.
  - Notify the Complainant of the importance of preservation of evidence.
  - With the Howard University Department of Public Safety, assess the reported conduct and discern the need for a timely warning under the Clery Act.
  - Provide the Complainant with written information about on and off campus resources.

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<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b>	<b>Student Allegations of Misconduct Policy (A3.15f)</b>		

- Provide the Complainant with an explanation of the procedural options, including Formal Grievance Resolution and Informal Resolution, and for allegations of Sexual Harassment I the option of filing a Formal Complaint.
  - Notify the Complainant of the range of supportive measures available, including the right to reasonable supportive measures regardless of whether they choose to participate in a University or law enforcement investigation.
  - Notify the Complainant of the range of supportive measures available if the University pursues an investigation.
  - Discuss the Complainant’s expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns).
  - Notify the Complainant of the right to be accompanied at any meeting by an advisor and/or support person of their choice.
  - Assess for any pattern of conduct that may give rise to a public safety concern.
  - Explain the University’s policy prohibiting retaliation, how to report retaliation, and that the University will take prompt action when retaliation is reported; and
  - Determine the age of the Complainant, and if the Complainant is a minor, make the appropriate notifications under applicable law.
- D.** With respect to Formal Complaints alleging a violation of Sexual Harassment I, the University may proceed with one of the following options:
- **Mandatory Dismissal** – If the conduct alleged in the Formal Complaint would not constitute Sexual Harassment I, even if proved, did not occur in the institution’s education program or activity, or did not occur against a person in the United States, the Formal Complaint must be dismissed as a Sexual Harassment I complaint.
    - If dismissed, the University will promptly send written notice of the dismissal and 24 reason(s) for such dismissal to the parties.
  - Nevertheless, the Title IX Office will then assess the Formal Complaint will then be assessed to determine whether the conduct alleged would constitute Sexual Harassment II or any other Prohibited Conduct under this policy.
    - Proceed with an investigation under the Formal Grievance Resolution - This occurs if the Formal Complaint has not been dismissed.

	<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b> <b>Department of Physician Assistant</b>	<i>Policy Number</i>	PHAS - 013
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<b>Howard University</b> <b>College of Nursing and Allied Health Sciences</b>	<b>Student Allegations of Misconduct Policy (A3.15f)</b>		

- Proceed with Informal Resolution - This will always require the consent of the parties. Informal Resolution will not be used to resolve any allegations that an employee engaged in Sexual Harassment I or Sexual Harassment II of a student.
  - Permissive Dismissal – A Formal Complaint or any allegations therein may be dismissed at any time during the investigation or hearing if the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; if the Respondent is no longer enrolled or employed by the University; or if specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein. If dismissed, the University will promptly send written notice of the dismissal and reason(s) for such dismissal to all the parties.
- E. With respect to complaints alleging all other forms of Prohibited Conduct, the University may proceed with one of the following options:
  - Proceed with an investigation under the Formal Grievance Process. This will occur when a Complainant requests an investigation, and the Title IX Coordinator determines that an investigation is warranted or where the Title IX Coordinator determines that an investigation must be pursued even when a Complainant requests that no investigation be pursued.
- F. Proceed with Informal Resolution – This will always require the consent of the parties.
  - If outside the scope of this policy, refer the matter to another appropriate office or department for resolution under the relevant policy.
  - The Title IX Coordinator will also ensure that Respondent is notified and receives written information on available resources and options, consistent with the list outlined above.