



# DISCIPLINARY PROCESS TRAINING

BREAK THE SILENCE (FALL 2015)



# OBJECTIVES

- To provide BTS members with definitions of harassment, sexual misconduct, sexual assault.
- To familiarize BTS members with the Disciplinary Process for cases involving harassment, sexual misconduct, sexual assault.
- To allow BTS members to ask questions concerning process, procedures, and the roles that everyone plays in the conduct process.

# BLUEPRINT FOUNDATIONS

- **Creative Curiosity** – Students involved in **BTS** will use the information provided today to look for solutions to campus problems.
- **Inclusive Leadership** – **BTS** members will help create a campus community that is safe, healthy, and inclusive for everyone.
- **Collaborative Connections** – **BTS** members will develop relationships with members of the **OSC&CE**.

# FOUNDATIONS

- The Code of Conduct is a set of expectations that the University has for its students.
- It only applies to students (similar policies exist for faculty and staff).
- It is parallel to and separate from the criminal court process.
- It is the basis of a contract that Lehigh University has with its students.

# DEFINITIONS

## ■ HARASSMENT

- **Hostile Environment:** A hostile work, learning, co-curricular, social or living environment occurs when a member of the Lehigh University community or a visitor is subjected to unwelcome statements, jokes, gestures, pictures, touching, or other conduct that offends, demeans, harasses, or intimidates and is based on one or more of these protected characteristics: age, color, disability, gender identity or expression, genetic information, marital or familial status, national or ethnic origin, race, religion, sex, sexual orientation, or veteran status.
- **Quid Pro Quo:** when a member of the Lehigh University community who has a position of power or influence over another member of the community (for example, professor over student, supervisor over supervisee, graduate teaching assistant over undergraduate class participant, etc.), explicitly, or implicitly, promises or withholds job-related or education-related benefits based upon the employee's or student's submission to sexual advances or behavior.

# DEFINITIONS

## ■ SEXUAL MISCONDUCT

- Offenses that constitute sexual misconduct include:
  - I. Sexual assault: Sexual contact that occurs without the explicit consent of each individual involved, including but not limited to, the following conduct:
    - **(a) Rape** – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
    - **(b) Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
    - **(c) Incest** – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - **(d) Statutory rape** – Sexual intercourse with a person who is under the statutory age of consent.

# DEFINITIONS

- CONSENT:

- *As used in this Policy, “consent” is defined as a **mutual agreement** to participate in **a specific activity at a specific time**. Consent must be clear, knowing, and voluntary. Consent to one kind of sexual activity does not, alone, imply consent to other sexual activities. Consent is required at each new level of sexual activity. Consent must be **clearly communicated** (for example, by way of mutually understandable words or actions), mutual, non-coercive, and given free of force or the threat of force. A student who is physically or mentally **incapacitated** by drugs, alcohol, or other circumstances is not capable of giving consent. A student must be awake and fully conscious in order to give consent. An individual may change their mind and revoke consent at any time by verbal or non-verbal communication. A previous dating or sexual relationship, whether with the respondent or anyone else, cannot imply consent to future sexual acts.*

# DEFINITIONS

- 2. **Conduct that exploits** another individual in a sexual and non-consensual way. This includes, but is not limited to, non-consensual voyeurism, non-consensual recording (audio or visual), non-consensual dissemination of recordings, and allowing others to view sexual activities without the consent of all of the participants.
- 3. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - (a) Fear for the person's safety or the safety of others; or
  - (b) Suffer substantial emotional distress.
- *As used in this Policy, "course of conduct" shall mean a pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.*
- *As used in this section, "emotional distress" shall mean a temporary or permanent state of mental anguish.*



# DEFINITIONS

- 4. **Dating violence:** *Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.*
- (a) *The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the following factors:*
  - (i) *the length of the relationship;*
  - (ii) *the type of relationship; and*
  - (iii) *the frequency of interaction between the persons involved in the relationship.*
- (b) *Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.*
- (c) *Dating violence does not include acts covered under the definition of domestic violence below.*

# DEFINITIONS

- **5. Domestic violence:** *Violence committed:*
  - (a) *By a current or former spouse or intimate partner of the victim;*
  - (b) *By a person with whom the victim shares a child in common;*
  - (c) *By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner,*
  - (d) *By a person similarly situated to a spouse of the victim under the domestic or family violence laws of Pennsylvania; or*
  - (e) *By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.*

## DEFINITIONS

- ***6. Exposure of one's body in an indecent or lewd manner.***
- ***7. Sexual activity in public or semi-public spaces.***

# INFORMAL PROCESS

- Harassment Cases
  - A way to resolve harassment cases without a formal disciplinary process.
  - Both parties must agree to an informal resolution.
  - Not appropriate for sexual misconduct cases.
  - Examples: No Contact Order, Change in work / class schedule, Change in office spaces.

# FORMAL PROCESS

- Goals:
  - Limit the number of times that a complainant has to tell their story.
  - Provide protections of fair process for respondent.
  - Provide an unbiased format for fact finding and decision making.
  - Allow for both (all) parties to have access to campus resources and interim actions.
  - Eliminate confrontational direct questioning by respondent and complainant.

# FORMAL PROCESS

- Investigative Model (Civil Rights Model)
  - Current Best Practice
  - Process:
    - Complaint is received usually by EOCC
    - Investigators Assigned
    - Investigation Launched
    - Input from Both (all) Parties
    - Gathering of Additional Evidence (text messages, emails, photographs, etc.)
    - Report Written
    - Determination (for student respondents panel of faculty and staff)
    - Sanctions if Responsible
    - Appeal Process
    - Other Actions

# ADVISOR'S ROLE

- Advisor of the person's choosing including attorneys or parents.
- May not speak to investigators or for client.
- May be present at all meetings.

## REFERENCES AND Q&A

- The Lehigh University Code of Conduct: <http://lehigh.edu/go/codeofconduct>
- Office of Student Conduct & Community Expectations: <http://studentaffairs.lehigh.edu/conduct>
- Equal Opportunity Compliance Coordinator: <https://eoicc.lehigh.edu/>
- Lehigh University Policy on Harassment and Non-Discrimination:  
[https://www.lehigh.edu/~policy/documents/2015-10-26\\_Clean\\_Revised\\_Policy\\_on\\_Harassment\\_v.2.pdf](https://www.lehigh.edu/~policy/documents/2015-10-26_Clean_Revised_Policy_on_Harassment_v.2.pdf)
- **What do you need to know that you don't know?**