

READING HOSPITAL SCHOOL OF HEALTH SCIENCES POLICY NO. 390

SUBJECT: Sexual Misconduct

Responsibility of: RSHS Director
Originated: February 2020

SCOPE:

All members of the Reading Hospital School of Health Sciences (RSHS) community, including students, employees, guests, and vendors.

PURPOSE:

To provide definition, reporting, and referral related to the occurrence of sexual misconduct. RSHS is committed to providing an environment free from sexual assault or sexual misconduct of any form. The School prohibits acts of sexual misconduct on the School campus, residence hall, and/or occurring within the School community.

POLICY:

It is the policy of RSHS to address any reports of sexual misconduct in a timely manner.

Physical or romantic relationships between school employees and current students is prohibited when the employee has any direct or indirect professional responsibilities for the student.

The Director of the School of Health Sciences serves as the Title IX Coordinator for the School of Health Sciences.

DEFINITIONS:

Sexual Consent: Sexual activity requires consent, which is defined as clear, unambiguous, and voluntary agreement between the participants to engage in specific sexual activity. Consent cannot be inferred from the absence of a “no”; a clear “yes”, verbal or otherwise, is necessary. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent, and individuals are thus urged to seek consent in verbal form. Talking with sexual partners about desires and limits may seem awkward, but serves as the basis for positive sexual experiences shaped by mutual willingness and respect.

Consent must be clear and unambiguous for each participant throughout any sexual encounter. Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply ongoing or future consent. Consent can be revoked at any time. For all of these reasons, sexual partners must evaluate consent in an ongoing fashion and should communicate clearly with each other throughout any sexual encounter.

Statement on Force, Coercion, Incapacitation, Alcohol and Drugs

Consent cannot be obtained by force, coercion, and incapacitation, alcohol or drugs. Agreement given under any of the following conditions does not constitute consent.

Force

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Force includes the use of threat or physical violence or intimidation to overcome an individual's freedom to choose to participate in sexual activity.

Coercion

Coercion includes the use of pressure and/or threat, including emotional distress, which results in fear or a potential harm or causes an individual to engage in unwelcome sexual activity.

Incapacitation

Incapacitation is a state in which an individual is unable to give consent, because they are mentally and/or physically helpless and cannot make a rationale or reasonable decision or fully understand the consequences of their actions. For example, consent cannot be obtained from someone who is asleep or otherwise incapacitated whether due to alcohol, drugs, or some other condition.

Alcohol and Drugs

Drug facilitated assault occurs when alcohol and/or drugs are used to compromise an individual's ability to consent to sexual activity. Additionally, an individual who has consumed alcohol and/or drugs still has a responsibility to obtain consent for any sexual activity with another individual. The use of alcohol or drugs will never be accepted as an excuse for failing to obtain consent.

Sexual Offense: Sexual offense, including rape or acquaintance rape, is any act directed against another person, regardless of age, forcibly or non-forcibly and/or against that person's will including taking advantage of someone who is under the influence of alcohol, drugs, and/or prescribed medication.

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.

Non-forcible rape: Incest and statutory rape. Statutory rape – Non-forcible sexual intercourse with a person who is under the age of consent. (Reference Annual Security Report)

Forcible: Rape – Sexual act which is forcible and/or against the person's will, or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth). Forcible Sodomy – oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly or against that person's will where the victim is incapable of giving consent due to his/her youth, or because of his/her temporary or permanent mental or physical incapacity. Forcible Fondling – Touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or, not forcibly or against the person's will where the victim is incapable of giving consent due to his/her youth, temporary or permanent mental or physical incapacity. Sexual Assault with an Object – Use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal openings of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth, or temporary or permanent mental or physical incapacity. (Reference Annual Security Report).

Sexual Exploitation: An act committed through non-consensual abuse or exploitation of an individual's sexuality for the purpose of personal gratification, financial gain, or other non-legitimate purpose. This includes, but is not limited to, the following: photographing, video/audio taping and distributing of recording and/or images without consent.

Voyeurism: An act of observing an individual engaging in sexual contact or activity or in a state of undress, without their knowledge or consent.

Domestic Violence

The School follows any Reading Hospital policy on Domestic Violence Screening and Referral. All suspected victims of domestic violence shall receive appropriate medical treatment and supportive care.

Domestic violence is a pattern of abusive behavior in which an individual establishes and maintains power and control over another with whom she/he has or has had an intimate, romantic, or family relationship. This includes but is not limited to actual or threatened physical or sexual abuse, psychological abuse, social isolation, deprivation, and intimidation. Indicators (high risk criteria) of Domestic Violence:

- History or incident not consistent with the kind of injury.
- Delays between time of injury and time of presentation for treatment.
- History of previous abuse.
- Injuries occurring during pregnancy.
- History of drug and alcohol abuse.
- Multiple healing injuries of different ages.
- Overly aggressive partner that refuses to leave them alone
- Evidence of sexual abuse.

Dating Violence

Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- length of the relationship
- type of relationship
- frequency of interaction between the persons involved in the relationship

Stalking

Stalking can be defined as 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 feel fear.

PROCEDURE:

Reporting Sexual Misconduct

An individual has the option to notify or to decline to notify School authorities, Security, and/or local law enforcement that an incident has occurred. If an individual who reports that s/he has been a victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking whether or not the incident occurred on or off campus, s/he will be provided with a copy of this policy.

The School encourages the student to report incidents of sexual misconduct in order to provide appropriate support and resources. It is also important that the student consider reporting the

incident to the Security Department at 484-628-8222, a Resident Advisor, or Coordinator of Student Services, Director of the School of Health Sciences, or any member of the faculty or staff. The student making the report shall be assured of a confidential process with information released on a “need-to-know” basis.

Statement Against Retaliation

An individual reporting sexual misconduct is entitled to protection from any form of retaliation following a report that is made in good faith. No act of retaliation or discrimination shall result as a result of reporting an incident. The School will take immediate action to any report of retaliation and may pursue disciplinary action as appropriate.

Note: Any School of Health Sciences’ employee or Resident Advisor who has been informed of an allegation of sexual misconduct involving a student is required to notify the School of Health Sciences Director with the names of the parties involved and the details of the report shared with him/her. The Director of the School of Health Sciences serves as the Title IX Coordinator for the School of Health Sciences.

The Role of the Title IX Coordinator is devoted to carrying out the school’s commitment to provide a positive environment for the entire learning community. Specific duties include addressing issues of gender-based discrimination and sexual misconduct occurring within the school environment. These responsibilities are defined further as:

- Maintaining and updating the Sexual Misconduct Policy;
- Coordinating annual notification and training for students;
- Tracking and monitoring of reported incidents;
- Ensuring that the school responds effectively to each complaint;
- Where appropriate, coordinating investigations with institutional security forces and local law enforcement.

During an Incident

- If the situation is one of immediate concern for safety, the individual needs to make all attempts to remove himself/herself from the threatening situation and call Security at 484-628-8222 or police at 911.
- We will assist you in obtaining medical attention if necessary which may involve a sexual assault examination by the Hospital emergency department. If you choose to have this type of exam, we ask that you avoid showering or changing clothing prior to the exam to preserve physical evidence.

After Your Report of an Incident

- An investigator will be made available to you in a timely manner. You also have the option of speaking to an officer/investigator of the gender of your choice.
- We will assist you in obtaining medical attention if necessary which may involve a sexual assault examination to check for STD’s and injury, as well as to collect evidence of the crime.
- Security will discuss options. An alleged victim’s cooperation is paramount as the alleged victim will be asked to share all available information about the incident. If you are comfortable in making a formal complaint, you will be asked to write down everything that has happened.
- The alleged victim may make the complaint confidentially, such that your name will not be disclosed to the alleged perpetrator. RSHS will protect an alleged victim’s

confidentiality, if requested. Please note that the School's ability to investigate and respond to the alleged victim's complaint may be limited if the complaint is confidential. However, the School will take all reasonable steps to investigate and respond to the complaint, consistent with the alleged victim's request for confidentiality.

On Campus Support and Referral

- Use of safe-rooms (on call rooms, K-Bldg, M-Bldg, unused patient rooms, etc.).
- Informal resolution through School Director.
- Changing of access codes or locks to deny a suspect access or de-activation of a suspect's badge entirely.
- Changing the alleged victim's living and academic arrangements at the School, at the request of the alleged victim, to the extent that other arrangements are reasonably available.
- Quest Employee Assistance Program, Social Services, and Chaplaincy Services.

Off Campus Support and Referral

- Use of off campus room facilities (e.g. local hotel).
- Use of local law enforcement in conducting a full police investigation.
- Information for obtaining a restraining order (PFA) on the individual in question.
- Counseling through agencies such as Safe Berks or Berks County Victim Services.

If reasonably available, the victim has the option to request changes in academic living, transportation, and working situations irrespective of whether or not they report the incident to security or local law enforcement.

Investigative and Disciplinary Process

Reported incidents will be thoroughly investigated in a timely manner by the School's Security Department and where necessary, reported to local law enforcement agencies. All investigations will include the alleged victim, the alleged perpetrator, and available witnesses.

The School of Health Sciences will endeavor to utilize progressive discipline where appropriate, which will be based solely on such factors as judgment as to the seriousness of the misconduct. The School will provide both the accuser and the accused with the same opportunities to have others present, to present witnesses, and to present other evidence during the disciplinary proceedings. The accuser and accused will be simultaneously informed of any proceedings in writing. Following the disciplinary proceedings, on the basis of evidence and using the preponderance of the evidence (more likely than not that the actions under review are in direct violation of policy), the investigative team will put all findings in writing. After the completion of all investigative and disciplinary proceedings, both the accuser and the accused will be notified of the outcome.

The accuser or accused may appeal in writing and must follow the School's Non-Academic Grievance Policy

Individuals who engage in any form of sexual assault or sexual misconduct are subject to disciplinary action that is not limited to, but may include: counseling, verbal warning, suspension, or any discipline up to and including dismissal from the School.

Information on the Pennsylvania Victim's Bill of Rights can be found at http://www.ova.state.pa.us/portal/server.pt/community/information_and_victim_rights/9243

No officer, employee, or agent of the institution shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under the Campus Save Act.

Bystander Intervention

The Bystander Intervention Model provides safe and positive options for students who may encounter abusive behavior.

The **Bystander Intervention Model** predicts that people are more likely to help others under certain conditions. (from the University of Wisconsin La Crosse)

1. Notices the Incident

Bystanders first must notice the incident taking place. Obviously, if they don't take note of the situation there is no reason to help.

2. Interpret incident as emergency

Bystanders also need to evaluate the situation and determine whether it is an emergency—or at least one in which someone needs assistance. Again, if people do not interpret a situation as one in which someone needs assistance, then there is no need to provide help.

3. Assume Responsibility

Another decision bystanders make is whether they should assume responsibility for giving help. One repeated finding in research studies on helping is that a bystander is less likely to help if there are other bystanders present. When other bystanders are present responsibility for helping is diffused. If a lone bystander is present he or she is more likely to assume responsibility.

4. Attempts to Help (See Tips for Intervening below)

Whether this is to help the person leaves the situation, confront a behavior, diffuse a situation, or call for other support/security.

The best way bystanders can assist in creating an empowering climate free of interpersonal violence is to diffuse the problem behaviors before they escalate.

- Educate yourself about interpersonal violence AND share this info with friends
- Confront friends who make excuses for other peoples abusive behavior
- Speak up against racist, sexist, and homophobic jokes or remarks

Tips for Intervening

In a situation potentially involving sexual assault, relationship violence, or stalking:

- Do not be antagonistic
- Avoid using violence
- Be honest and direct whenever possible

- Recruit help if necessary
- Keep yourself safe
- If things get out of hand or become too serious, contact the police

Pennsylvania Sex Offender Registry

The Campus Sex Crimes Prevention Act (CSCPA) of 2000 is a federal law that provides for the tracking of sex offenders enrolled at, or employed by, institutions of higher education. A list of all registered sex offenders in Pennsylvania is available at the <http://www.pameganslaw.state.pa.us/>

EDUCATION AND TRAINING:

Crime awareness and prevention information is provided every year at student orientation.

REFERENCES:

N/A

COMMITTEE AND COUNCIL APPROVALS:

RSHS Safety Committee, (May 2015)
RSHS Directors Meeting, February 2020

CANCELLATION:

Reading Hospital or Tower Health policies directly related to this topic shall supersede this RSHS policy. This policy supersedes all previous policies, memoranda, and/or other communications pertaining to this policy.