



# Board of Governors Meeting

Thursday, August 13, 2020 at 10 a.m.

The meeting will be webcast online at [www.passhe.edu](http://www.passhe.edu).  
Members of the public who wish to speak during the public comment period should dial 1-717-839-2360 no later than 10 a.m.

Thursday, August 13, 2020

10:00 a.m.      **Board of Governors Meeting**

1. Roll Call
2. Public comment
3. Remarks by union leaders
4. Board action items
  - a. Sexual Misconduct Policy 2020-01 (pg. 2)
  - b. Amorous Relationships Policy 2020-02 (pg. 5)
  - c. Authorization for Disposition of the DUC (pg. 11)
  - d. Authorization for Disposition of Porreco facility at Edinboro (pg. 16)
5. New business
6. Adjournment

**NOTE:** An Executive Session of the Board will be held at the end of the regular public meeting for Board members and invited guests only.

**Board of Governors Meeting**  
August 13, 2020

**SUBJECT:** Sexual Misconduct Policy (ACTION)

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**UNIVERSITIES AFFECTED:** All Universities and the Office of the Chancellor

**BACKGROUND:** Title IX of the Education Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule (Regulations) under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence);
- Addresses how postsecondary institutions must respond to reports of misconduct falling within the definition of "sexual harassment"; and
- Mandates a grievance (or resolution) process postsecondary institutions must follow before issuing disciplinary sanctions against a person accused of "sexual harassment" as defined by the Title IX Regulations.

In addition to federal legislative requirements, Act 16 of 2019 of the General Assembly of Pennsylvania requires all postsecondary institutions in the Commonwealth of Pennsylvania to adopt a clear, understandable written policy on sexual harassment and sexual violence that informs victims of their rights under federal and state law, including the crime victims' bill of rights.

Pennsylvania's State System of Higher Education (State System) is committed to maintaining educational environments and workplaces free from sexual misconduct. The State System and its universities must take steps to prevent sexual misconduct, prevent its recurrence and address discriminatory effects on the victim(s) and others, if appropriate. The Sexual Misconduct Policy provides the framework for Universities and the Office of the Chancellor to comply with obligations of the Title IX Regulations and Pennsylvania law.

**MOTION:** That the Board of Governors approves the Sexual Misconduct Policy effective August 14, 2020.

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**Supporting Documents Included:** Draft Policy 2020-01: *Sexual Misconduct*

**Other Supporting Documents Available:** Working Sexual Misconduct Template Policy for Universities

**Reviewed by:** Executive Leadership Group, University Title IX Coordinators, University Conduct Directors

**Prepared by:** Andrew Lehman, Chief Counsel

**Telephone:** (717) 720-4030

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**Effective:** Month XX, 2020

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## **Policy 2020-01: *Sexual Misconduct***

### **See Also:**

Board of Governors Policy 1983-11: *Equal Opportunity*

Board of Governors Policy 1984-13-A: *Student Disciplinary Due Process Requirement*

Board of Governors Policy 1983-01-A: *Merit Principles*

Board of Governors Policy 1984-14-A: *Terms and Conditions of Employment of Senior Policy Executives*

Board of Governors Policy 2020-02: *Amorous Relationships*

**Adopted:** Month XX, 2020

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### **A. Purpose and Scope**

Sexual misconduct is a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act. In addition, some forms of sexual misconduct violate the criminal laws of the Commonwealth of Pennsylvania. Sexual misconduct includes sexual harassment and sexual violence.

Pennsylvania's State System of Higher Education (State System) is committed to maintaining educational environments and workplaces free from sexual misconduct. The State System and its universities must take steps to prevent sexual misconduct, prevent its recurrence and address discriminatory effects on the victim(s) and others, if appropriate. Sexual misconduct can be committed by any person, regardless of gender identity, and can occur between persons of the same or different sex, sexual orientation, or gender expression.

### **B. Policy**

In accordance with the regulations promulgated under Title IX of the Education Amendments of 1972:

1. Each university President shall appoint an individual to serve as the university's Title IX Coordinator to coordinate the university's efforts to comply with its responsibility under Title IX of the Education Amendments of 1972 and related regulations.

2. Each university shall prominently display the name and contact information of the individual(s) designated as the Title IX Coordinator(s) on its website and in handbooks or catalogs and other appropriate materials. The name and contact information of the University Title IX Coordinator(s) shall also be provided to those individuals required to be notified under applicable federal and state law.
3. Each university shall disseminate its policy on sexual misconduct to those individuals required to be notified under applicable federal and state law.
4. Each university shall adopt a policy for resolving sexual misconduct complaints in a prompt and equitable manner.
5. Each university shall train those individuals serving as Title IX Coordinator(s), investigators, decision makers, appeals officers, and individuals who facilitate informal resolutions on how to carry out their respective responsibilities under the university's policy.
6. The chancellor shall publish a template policy for resolving sexual misconduct complaints that may be adopted or adapted for use by universities.
7. The chancellor, in consultation with the Executive Leadership Group, shall adopt procedures, standards, related policies and guidelines, as necessary, for implementation of this policy as applicable to employees accused of having engaged in sexual misconduct violations prohibited under federal and state law, including the regulations promulgated under Title IX of the Education Amendments of 1972.

**D. Effective Date**

This Policy is effective August 14, 2020.

**Board of Governors Meeting**  
August 13, 2020

**SUBJECT:** Amorous Relationship Policy (ACTION)

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**UNIVERSITIES AFFECTED:** All Universities and the Office of the Chancellor

**BACKGROUND:** One of the core missions of Pennsylvania's State System of Higher Education (State System) is to provide a productive educational environment and a professional workplace that is based on trust, mutual respect, and the integrity of all members of the university community. Such trust and respect are undermined when State System employees and officials engage in amorous relationships with students or with employees for whom the individual has supervisory, instructional, or professional responsibilities. Due to actual or perceived differences in authority, these relationships create actual or perceived conflicts of interest and raise the potential for exploitation and/or bias. In order to establish the professional standards expected of members of the university community, the Board of Governors establishes this personnel policy. Universities may additionally establish policies for their institution that provide greater restrictions than this personnel policy. The State System believes this policy is important to protect its students and employees and to establish consistent and equitable treatment of its students and employees throughout the System.

**MOTION:** That the Board of Governors approves the Amorous Relationships Policy effective August 14, 2020.

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**Supporting Documents Included:** Draft Policy 2020-02: *Amorous Relationships*

**Reviewed by:** Executive Leadership Group

**Prepared by:** Andrew Lehman, Chief Counsel

**Telephone:** (717) 720-4030



# PA State System of Higher Education Board of Governors

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Effective: Month XX, 2020

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## Policy 2020-02: *Amorous Relationships*

### See Also:

BOG Policy 2012-01: *Conflict of Interest*

BOG Policy 1985-04-A: *University External Financial Support*

BOG Policy 1985-05: *State System of Higher Education External Financial Support*

BOG Policy 2014-01-A: *Protection of Minors*

Procedure/Standard 2013-15: *Relationships with Affiliated Entities*

Procedure/Standard 2015-21: *Background Clearances and Reporting Requirements*

Adopted: Month XX, 2020

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### A. Purpose

One of the core missions of Pennsylvania's State System of Higher Education (State System) is to provide a productive educational environment and a professional workplace that is based on trust, mutual respect and the integrity of all members of the university community. Such trust and respect are undermined when State System employees and officials engage in amorous relationships with students or with employees for whom the individual has supervisory, instructional or professional responsibilities. Due to actual or perceived differences in authority, these relationships create actual or perceived conflicts of interest and raise the potential for exploitation or bias. In order to establish the professional standards expected of members of the university community, the Board of Governors establishes this personnel policy. Universities may establish policies for their institution that provide greater restrictions than this personnel policy.

### B. Definitions

- **“Amorous Relationship”** means a consensual relationship or encounter of a romantic, intimate, sexual or dating nature between persons who are not married to each other. The relationship may or may not involve physical contact and can include relationships conducted via electronic communications, such as text or social media platforms.

- **“Discipline”** means the penalty imposed on an employee for violating this policy, subject to applicable collective bargaining agreement provisions or State System or university policies, up to and including separation from employment.
- **“Employee”** means an individual who is employed by the State System (either at a State System university or in the Office of the Chancellor) including, but not limited to, faculty members, coaches, staff, managers and graduate student employees. Undergraduate students shall not be considered employees for purposes of this policy.
- **“Official”** means a member of a Council of Trustees or the Board of Governors or their respective designees.
- **“Volunteer”** means a recognized volunteer or any individual who represents or acts on behalf of the university or whose actions may bind the university, regardless of whether the individual receives monetary or other compensation. For purposes of this policy, employees and officials of recognized affiliated entities, ROTC instructors, visiting professors and unpaid camps and conference personnel will also be considered volunteers.
- **“Sanction”** means the penalty for violating this policy as applicable to one’s status as an official or volunteer. This penalty may include the removal or the request for removal of the official or volunteer from their respective position.
- **“Student”** means any individual enrolled in one or more regularly scheduled undergraduate or graduate courses or noncredit-bearing instruction or certification programs at any State System university. The term “student” shall include employees, volunteers and officials where the employee, volunteer or official otherwise meets the enrollment criteria set forth in this definition.
- **“Supervisory Responsibilities”** means the authority to assign work to another; evaluate the performance or conduct of another; direct another; or otherwise make, recommend or influence decisions that affect the hiring, appointment, reappointment, promotion, assignment of duties, evaluation or terms and conditions of another’s employment, volunteer status or student status.
- **“Instructional Responsibilities”** means the authority to evaluate or supervise the performance or conduct of a student; instruct, advise or coach a student; or otherwise make, recommend or influence decisions that affect the individual’s status as a student at a State System university.
- **“Professional Responsibilities”** means job or appointment-related responsibilities that could influence the student’s education or professional career.

## C. Policy

### 1. Amorous Relationships with Students

All employees, volunteers, and officials are prohibited from entering into amorous relationships with students where the employee, volunteer or official has supervisory, instructional or professional responsibilities concerning the student.

An amorous relationship between an employee, volunteer or official and a student not otherwise prohibited under this policy is strongly discouraged as it may create an actual or perceived conflict. If there is any doubt whether a relationship falls within the scope of this policy, individuals should disclose the facts to and seek guidance from the chief human resources officer rather than fail to disclose. Failure to disclose a relationship as required by this policy could result in discipline or sanctions.

Student members of a Council of Trustees or the Board of Governors are not prohibited from having amorous relationships with other students under this policy because of their status as officials.

### 2. Amorous Relationships with Employees or Volunteers

All employees, volunteers, and officials are prohibited from entering into amorous relationships with other employees, volunteers or officials where one party has supervisory, instructional or professional responsibilities concerning the other party.

Amorous relationships between employees, volunteers and officials not otherwise prohibited under this policy are strongly discouraged as they may create an actual or perceived conflict. If there is any doubt whether a relationship falls within the scope of this policy, individuals should disclose the facts to and seek guidance from the chief human resources officer rather than fail to disclose. Failure to disclose a relationship as required by this policy could result in discipline or sanctions.

### 3. Relationships with Minors

Regardless of supervisory, instructional or professional responsibilities, all employees, volunteers and officials are prohibited from entering into amorous relationships with persons under 18 years of age.

### 4. Disclosure of Relationships

Pre-existing amorous relationships where one party has supervisory, instructional or professional responsibilities concerning the other party are not prohibited under this policy, provided the individual with supervisory, instructional or professional responsibilities discloses the relationship to the chief human resources officer within 30 days of the effective date of this policy, and an acceptable conflict management plan is implemented. The conflict management plan will be kept separate from any official personnel file. The Office of the Chancellor and each university shall publish



the name and contact information of the chief human resources officer or designee on their respective websites.

Consistent with [Board of Governors' Policy 2012-01: \*Conflict of Interest\*](#), employees are required to report any conflict of interest involving an immediate family member, including a spouse, so that necessary and appropriate actions are taken to remedy or avoid the conflict of interest or potential for conflict of interest.

Third parties are not mandated reporters of any prohibited or pre-existing relationship between parties over the age of 18, but may report concerns to the chief human resources officer.

## **5. Management of Conflicts**

For pre-existing amorous relationships, the individual in the relationship who has or may have supervisory, instructional or professional responsibilities must submit a written conflict management plan to the chief human resources officer explaining in detail how the conflict will be managed. The disclosing employee shall submit the conflict management plan within 30 days of the effective date of this policy or upon notice of a change in circumstances that gives one party to the amorous relationship supervisory, instructional or professional responsibilities concerning the other party.

The chief human resources officer (or designee) shall review the submitted conflict management plan and work with the parties involved in the amorous relationship and with other appropriate individuals to make any necessary changes to the proposed plan to effectively and appropriately manage the conflicts. The chief human resources officer (or designee) is responsible for administering the conflict management plan and will notify appropriate individuals of the existence of the conflict management plan.

Conflict management plans may include, but are not limited to, altering supervisory or employment reporting lines; moving a student to another section of the same course; appointing a different individual to serve on an academic, conduct or evaluative committee; moving the parties to other positions of the same or comparable status and duties; or establishing alternative means of evaluation of academic or work performance.

If a relationship involves the chief human resources officer, the matter should be referred to the individual responsible for supervising the chief human resources officer to address the conflict consistent with the mandates of this policy.

## **6. Violations**

A violation of this policy occurs when an employee, volunteer or official: (1) engages in a prohibited amorous relationship; (2) engages in a pre-existing amorous relationship without disclosing; or (3) engages in a pre-existing amorous relationship and fails to cooperate in managing conflicts associated with an amorous relationship covered by this policy.

Violations of this policy by an employee or volunteer constitutes misconduct subject to disciplinary action, up to and including discharge or termination, in accordance with any applicable collective bargaining agreement provisions or State System or university policies. Alleged violations by students may be referred by the university for review in accordance with the code of conduct. Alleged violations by officials may be referred to the appointing authority. Violations of this policy may lead to discipline or sanctions, as appropriate, regardless of how the violation is brought to the attention of the State System or the university.

Amorous relationships under this policy are consensual relationships. Conduct that violates local, state or federal law or relevant State System or university policies should be handled pursuant to applicable policy or by law enforcement, as appropriate. Violations of this policy that result in administrative or legal claims against the State System or a university may result in representation or indemnification being denied to the employee, volunteer or official pursuant to 4 Pa. Code Chap. 39.

#### **7. Reporting Violations of this Policy**

A violation of this policy may be reported by any individual to the chief human resources officer (or designee).

Anonymous complaints will be investigated to the extent possible; however, due process considerations may limit the ability to investigate or resolve such complaints.

#### **8. Retaliation**

No individual shall retaliate against another individual for making a good faith report or participating in a process under this policy. A complaint is not considered a bad faith report merely because the evidence does not ultimately support the allegation. Individuals are prohibited from knowingly filing a false complaint or knowingly making misrepresentations. If an investigation results in a finding that a person has knowingly filed a bad faith report or made misrepresentations, the reporting party may be subject to appropriate discipline or sanctions.

#### **9. Confidentiality**

Any disclosures made or conflict management plans developed will be kept confidential to the fullest extent possible under applicable law and policy.

### **D. Effective Date**

This policy is effective August 14, 2020.

**Board of Governors Meeting**  
August 13, 2020

**SUBJECT:** Property Disposition, Dixon University Center (ACTION)

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**UNIVERSITIES AFFECTED:** None

**BACKGROUND:** The Office of the Chancellor seeks approval from the Board of Governors regarding the disposition of the property—in whole or in part—located at 2986 North Second Street in Harrisburg, known as the Dixon University Center. The property was deeded to the System in 1992. At the time, the six-acre site required extensive renovations to suit the needs of the System. Since then, the property has been well maintained and is in good condition. However, the size of the location now exceeds the needs of the Office of the Chancellor and is largely underutilized. Disposition of the site—and relocation to a smaller facility—would reduce overhead costs for the Office of the Chancellor, thus allowing the savings to be invested in the ongoing System Redesign efforts on behalf of the entire system.

The property consists of six (6) buildings and an underground parking garage. The aggregate building area of the campus is 135,000 gross square feet, located on a 6.42-acre site.

Leasing of the property requires no action beyond the State System's authority. The sale of this property would require notification to and favorable resolution from the General Assembly.

**MOTION:** That the Board of Governors approves the Office of the Chancellor's request to proceed with the disposition of property known as the Dixon University Center through lease or sale.

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**Supporting Documents Included:** Property photos and map

**Other Supporting Documents Available:** Property disposition information

**Reviewed by:** N/A

**Prepared by:** Sharon Minnich

**Telephone:** (717) 720-4100



Administration Building, Dixon University Center



Duncan Hall, Dixon University Center



Hughes Hall, Dixon University Center



Richards Hall, Dixon University Center



South Hall, Dixon University Center



Official Residence, Dixon University Center



**Dixon University Center  
2986 North Second Street, Harrisburg, PA**

**Board of Governors Meeting**  
August 13, 2020

**SUBJECT:** Property Disposition, Porreco location (ACTION)

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**UNIVERSITIES AFFECTED:** Edinboro University

**BACKGROUND:** Edinboro University seeks approval for the disposition of the property located at 2951 West 38th Street, Millcreek Township, Erie County, PA 16506.

The University was gifted the property by Louis J. Porreco in 1986. The proposed divestiture of the property was identified as part of a preliminary sustainability plan submitted by the University in January 2020. All classes previously scheduled for the Porreco location have been moved to the main campus or online; therefore, operations at the Porreco location concluded at the end of the spring semester 2020.

The property contains 26.3 acres. The primary buildings include a 4,276-square foot conference and seminar center (Mary Porreco House), a 2,800-square foot classroom building (Thompson Education Center), a 470-square foot bookstore (Spring House), a 2,790-square foot administrative office building (Caretaker's House), a 16,273-square foot classroom building (that was partially converted from a former bank barn), a 1,320-square foot maintenance building (Carriage House), a 719-square foot music studio (Summer Cottage). These improvements were constructed from 1940 through 1970 and vary from fair to average/good condition. Also, there is a 390-square foot boathouse, a 587-square foot detached garage, and a 2,928-square foot storage barn (L-Barn) in poor condition and at the end of their economic lives.

The sale of this property will require notification to and favorable resolution from the General Assembly.

**MOTION:** That the Board of Governors approves Edinboro University's request to proceed with the disposition of the property at 2951 West 38th Street, Millcreek Township and that any resulting proceeds will remain with the University.

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**Supporting Documents Included:** Property photos and map

**Other Supporting Documents Available:** Property disposition information

**Reviewed by:** Edinboro University Counsel of Trustees, July 24, 2020

**Prepared by:** Sharon Minnich

**Telephone:** (717) 720-4100





Mary Porreco House



Thompson Education Center



Spring House



Caretaker's House



Barn Classroom Complex



Carriage House



Summer Cottage



L-Barn



**Porreco Center - Edinboro University  
2951 West 38th Street, Millcreek Township, Erie County, PA 16506**