



Applies to: Faculty, staff, students, student employees, graduate associates, suppliers/contractors, program participants, volunteers, and visitors

Responsible Office

Office of Institutional Equity

POLICY

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Members of the university community have the right to be free from all forms of sexual misconduct which impede the realization of the university’s mission of distinction in education, scholarship, and service. All members of the university community are expected to conduct themselves in a manner that maintains an environment free from sexual misconduct.

Sexual misconduct violates the dignity of individuals and will not be tolerated. The university community seeks to eliminate sexual misconduct through education and by encouraging everyone to report concerns or complaints, including third parties when the respondent is a member of the university community. The university is committed to stopping sexual misconduct, preventing its recurrence, eliminating any hostile environment, and remedying its discriminatory effects. This policy defines expectations for the university community and establishes mechanisms for determining when those expectations have been violated.

This policy will be interpreted in compliance with applicable law and exceptions provided by applicable law. Nothing in this policy is intended to detract from rights guaranteed to bargaining unit members under their current collective bargaining agreements.

Purpose of the Policy

To maintain a university environment free from sexual misconduct.

Definitions

Table with 2 columns: Term, Definition. Row 1: Consent, Permission that is clear, knowing, voluntary, and expressed prior to engaging in and during an act. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. A. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. B. Consent may be withdrawn at any time. C. Previous relationships or prior consent cannot imply consent to future sexual acts; this includes "blanket" consent (i.e., permission in advance for any/all actions at a later time/place). D. Consent cannot be given by an individual who one knows to be – or based on the circumstances should reasonably have known to be – substantially impaired (e.g., by alcohol or other drug use, unconsciousness, etc.). 1. Substantial impairment is a state when an individual cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). 2. This also covers individuals whose substantial impairment results from other physical or mental conditions including mental disability, sleep, involuntary physical restraint, or from the consumption of alcohol or other drugs. 3. Being impaired by alcohol or other drugs will never function as a defense for any behavior that violates this policy. E. It is the obligation of the person initiating the sexual activity to obtain consent.



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	<p>F. An individual cannot consent who has been coerced, including being compelled by force, threat of force, or deception; who is unaware that the act is being committed; or who is coerced by a supervisory or disciplinary authority.</p> <ol style="list-style-type: none"> <li>1. Force: violence, compulsion, or constraint; physically exerted by any means upon or against a person.</li> <li>2. Coercion: the application of pressure by the respondent that unreasonably interferes with the complainant's ability to exercise free will. Factors to be considered include, but are not limited to, the intensity and duration of the conduct.</li> </ol> <p>G. A person who does not want to consent to sex is not required to resist or verbally object.</p> <p>H. Withdrawal of consent can be manifested through conduct and need not be a verbal withdrawal of consent (i.e. crying, pulling away, pushing away, not actively participating, lying there, uncomfortable or upset facial expression).</p> <p>I. Consent may not be given by an individual who has not reached the legal age of consent under applicable law.</p>
Education program or activity	Locations, events, or circumstances over which the university exercises substantial control over both the respondent and the context in which the sexual harassment occurs, including employment, and also includes any building owned or controlled by a student organization that is officially recognized by the university.
Formal complaint	A broad term than encompasses two types of complaints: an <b>Office of Institutional Equity (OIE) formal complaint</b> and a <b>Title IX formal complaint</b> .
OIE formal complaint	Under this policy, a document filed by a complainant or signed by an Office of Institutional Equity director or designee alleging sexual misconduct against a respondent and requesting that the university investigate the allegation that does not fall under Title IX. For the purpose of filing an OIE formal complaint, OIE directors include: Americans with Disabilities Act coordinator, director of Affirmative Action/EEO, Title IX coordinator, and director of youth protection.
Title IX formal complaint	A document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment (Title IX) against a respondent and requesting that the university investigate the allegation of sexual harassment.
Party	A broad term that encompasses <b>complainant(s)</b> and <b>respondent(s)</b> in a matter.
Complainant	An individual who is alleged to be the victim of conduct prohibited by this policy. An individual may be a complainant regardless of whether that individual makes a report or participates in the review of that report by the university.
Respondent	An individual who has been reported to be the perpetrator of conduct prohibited by this policy.
Relationship violence	A broad term that encompasses <b>dating violence</b> and <b>domestic violence</b> .
Domestic violence	Conduct that would meet the definition of a felony or misdemeanor crime of 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 under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
Dating violence	<p>Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.</p> <ol style="list-style-type: none"> <li>A. The existence of such a relationship will be determined based on the reporting party'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.</li> <li>B. For the purposes of this definition— <ol style="list-style-type: none"> <li>1. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.</li> <li>2. Dating violence does not include acts covered under the definition of domestic violence.</li> </ol> </li> </ol>
Retaliation	Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by this policy, or because the individual has made



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	<p>a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.</p> <p>Intimidation, threats, coercion, or discrimination, including charges against an individual for policy violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by this policy, constitutes retaliation.</p> <p>Examples of retaliation include: discrimination or harassment as defined by this policy, job termination, adjustment in pay or responsibilities, or any other action that has a materially adverse effect on the working environment of an employee, that hinders or prevents an employee from effectively carrying out their university duties, or that has a materially adverse impact on the academic or living environment of a student. Any person or group within the scope of this policy who engages in retaliation is subject to a separate complaint of retaliation under this policy. A good faith pursuit by a party of civil, criminal or other legal action, internal or external to the university, does not constitute retaliation.</p>
Sexual misconduct	A broad term that encompasses <b>sexual harassment, sexual assault, relationship violence, stalking, and sexual exploitation.</b>
Sexual harassment (non-Title IX)	<p>In the employment context, sexual harassment is unwelcome verbal or physical conduct based on sex (including gender and sexual orientation) that unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or offensive work environment. In the education context, sexual harassment is unwelcome, sex- or gender-based verbal or physical conduct that interferes with, denies, or limits an individual’s ability to participate in or benefit from the university’s educational programs and activities.</p> <p>Sexual harassment can take two forms: power differentials (quid pro quo) or hostile environment:</p> <p>A. <i>Quid pro quo</i> sexual harassment exists when:</p> <ol style="list-style-type: none"> <li>1. There are unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature; and</li> <li>2. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic status; or</li> <li>3. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions adversely affecting such individual.</li> </ol> <p>B. <i>Hostile environment in the employment context</i> includes any situation in which there is harassing conduct that is sufficiently severe or pervasive that it unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or abusive work environment. <i>Hostile environment in the education context</i> includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive that it interferes with, or denies educational benefits or opportunities, from both a subjective (the complainant’s) and an objective (reasonable person’s) viewpoint.</p> <ol style="list-style-type: none"> <li>1. The determination of whether an environment is “hostile” is based on a totality of circumstances. These circumstances may include: <ol style="list-style-type: none"> <li>a. The degree to which the conduct interfered with the complainant’s educational or work performance;</li> <li>b. The type, frequency, and duration of the conduct;</li> <li>c. The identity of and relationship between the respondent and the complainant(s);</li> <li>d. The number of individuals involved;</li> <li>e. The age and sex of the respondent and the complainant(s);</li> <li>f. The location of the incident(s) and the context in which it occurred;</li> <li>g. The nature and severity of the conduct;</li> <li>h. Whether the conduct was physically threatening;</li> <li>i. Whether the conduct was humiliating;</li> <li>j. The effect of the conduct on the complainant’s mental or emotional state;</li> <li>k. Whether the conduct arose in the context of other discriminatory conduct;</li> </ol> </li> </ol>



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	<p>1. Whether the speech or conduct deserves the protections of academic freedom or the first amendment.</p> <p>2. A single or isolated incident of sexual harassment may be severe enough to create a hostile environment. Minor slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of sexual harassment. In order to violate this policy, the conduct must create an environment that would be intimidating, hostile, or offensive to a reasonable person.</p> <p>All such acts of sexual harassment are forms of sexual misconduct under this policy.</p>
Sexual harassment (Title IX)	<p>Conduct on the basis of sex that satisfies one or more of the following:</p> <ol style="list-style-type: none"> <li>1. An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct (i.e. quid pro quo);</li> <li>2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the education program or activity; or</li> <li>3. Sexual assault, dating violence, domestic violence, or stalking as defined in this policy.</li> </ol>
Sexual assault	<p>Any sexual act directed against another person, without the consent of the complainant including instances where the complainant is incapable of giving consent. Sexual assault is an umbrella term that includes: <b>non-consensual sexual contact, non-consensual sexual penetration, incest, and statutory rape.</b></p>
Non-consensual sexual contact	<p>The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent. Sexual contact includes: intentional contact with the breasts, buttock, groin, or genitals; or touching another with any of these body parts or an object; or making another touch you or themselves with or on any of these body parts. Non-consensual sexual contact includes forcible fondling.</p>
Non-consensual sexual penetration	<p>Penetration, no matter how slight, of the vagina or anus (including genital or anal opening) with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.</p> <p>Sexual penetration includes: vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact); no matter how slight the penetration or contact.</p> <p>Non-consensual sexual penetration includes forcible rape, forcible sodomy, and sexual assault with an object.</p> <p>Forcible Rape: 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 complainant.</p> <p>Forcible Sodomy: Oral or anal sexual intercourse with another person, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age of consent in the applicable jurisdiction or because of temporary or permanent mental or physical incapacity.</p> <p>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, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.</p>



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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 in the applicable jurisdiction.
Sexual exploitation	<p>Occurs when an individual takes non-consensual or abusive sexual advantage of another for that individual's own advantage or benefit, or to benefit or advantage anyone other than the individual being exploited. Examples of sexual exploitation include, but are not limited to:</p> <ul style="list-style-type: none"> <li>A. Engaging in voyeurism;</li> <li>B. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;</li> <li>C. Going beyond the boundaries of consent (e.g., letting others hide in a closet to watch you having consensual sex);</li> <li>D. Invasion of sexual privacy;</li> <li>E. Knowingly transmitting a sexually transmitted infection (STI) to another;</li> <li>F. Non-consensual pictures, video-, or audio-recording of sexual activity, or the nonconsensual distribution of;</li> <li>G. Possession, use, and/or distribution of alcohol or other drug (e.g., Xanax, Ambien, Benadryl, Rohypnol ("Roofies"), Ketamine, GHB, etc.) for the purpose of engaging in or facilitating any activity prohibited under this policy; and</li> <li>H. Prostituting another.</li> </ul> <p>Sexual exploitation that meets the definition of sexual harassment (Title IX) will be addressed pursuant to that definition and associated procedures.</p>
Stalking	<p>A course of conduct directed at a specific individual that would cause a reasonable person under similar circumstances and with similar identities to the complainant to fear for their own or others' safety, or to suffer substantial emotional distress. A course of conduct includes two or more acts, including but not limited to, those in which the alleged directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the complainant, or interferes with the complainant's property.</p> <p>When stalking is not based on sex or gender, it may violate other university policies including but not limited to the Code of Student Conduct or the Workplace Violence 7.05 policy.</p>
Student	<p>An individual to whom an offer of admission has been extended, paid an acceptance fee, registered for classes, or otherwise entered into another agreement with the university to take instruction. Student status lasts until an individual graduates, is permanently dismissed, or is not in attendance for two complete, consecutive terms, and includes those with a continuing educational relationship with the university. "Student" also includes registered student organizations. A student organization remains a "student" for purposes of this policy for one calendar year following the expiration of the organization's most recent registration. A student organization is not a "student" for the purposes of Title IX formal complaints under this policy.</p> <p>The university reserves the right to administer this policy and proceed with any process provided by this policy even if the student withdraws from the university, is no longer enrolled in classes, or subsequently fails to meet the definition of a student while a disciplinary matter is pending.</p>
Supportive measures	Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter sexual harassment.



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Title IX coordinator	The designated and authorized university official with primary responsibility for coordinating the university's compliance with Title IX. This individual provides leadership for Title IX activities; offers consultation, education, and training; and helps to ensure that the university responds appropriately, effectively, and equitably to all Title IX issues. The Title IX coordinator oversees the delegation of tasks as necessary to effectuate all regulatory responsibilities.
University community	Faculty, staff, students, student employees, graduate associates, suppliers/contractors, program participants, volunteers, and visitors.

**Policy Details**

I. Scope

A. Medium

1. This policy applies to alleged sexual misconduct in any medium. Sexual misconduct may manifest in many evolving forms including, but not limited to: physical, verbal, visual, and online/electronic/social media.

B. Jurisdiction

1. Under this policy, **Office of Institutional Equity (OIE) formal complaints** will cover alleged sexual misconduct that:
  - a. Occurs at an event, program, or endeavor operated, conducted, or organized by the university; and/or
  - b. Occurs anywhere off-campus, including virtual spaces, when the Title IX coordinator determines that the alleged sexual misconduct could reasonably create a hostile environment in the education program or activity.
    - i. For an employee, the above may include off-duty conduct. When an employee engages in conduct in violation of the this policy and the conduct is committed off-duty and not on university property or in the context of an educational program or activity, the university may discipline the employee, up to and including discharge, whenever the conduct impairs the credibility of the employee to perform the employee's job or is otherwise connected to employment at the university; has the purpose or reasonably foreseeable effect of substantially interfering with the work or educational performance of students, faculty, or staff; or the conduct demonstrates that the individual poses a reasonable threat to campus safety and security. Employee conduct that is off-duty but on university property or that is directed toward university students, employees, affiliates, or property is always connected to employment at the university. Likewise, employee conduct that is on duty but off university property is always connected to employment at the university.
    - ii. For students, this policy also applies in circumstances described in Section 3335-23-02 (A) and (B) of the [Code of Student Conduct](#).
2. Under this policy, **Title IX formal complaints** will cover alleged sexual misconduct that:
  - a. Takes place in the context of an **education program or activity** of the university; and
  - b. Occurs against a person in the United States, and
  - c. Where the complainant is participating in or attempting to participate in the education program or activity of the university.
3. Under some circumstances, the **Title IX coordinator** or designee or an OIE director or designee may file a **formal complaint**, such as when there is a risk to the campus community, and the complainant will be informed as such.
4. Nothing in this policy detracts from any legal right of a parent or guardian to act on behalf of a complainant, respondent, or other individual, subject to Family Educational Rights and Privacy Act (FERPA), including but not limited to filing a formal complaint.



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5. The university has a compelling obligation to address allegations and suspected instances of sexual misconduct when it knows or should have known information that would lead a reasonable person to believe that this policy has been violated.
  6. The university's response may be limited if the respondent is a visitor or other third-party or is not subject to the university's jurisdiction.
- C. This policy is not intended for, and will not be used to, infringe on academic freedom or to censor or punish members of the **university community** who exercise their legitimate first amendment rights.
- D. Policy maintenance
1. This policy is managed by OIE and the Title IX coordinator.
  2. This policy and the associated procedures will be revised by a working group comprised of OIE, the Office of Academic Affairs, the Office of Human Resources, the Office of Legal Affairs, and the Office of Student Life.
- II. Romantic and/or Sexual Relationships
- A. Romantic and/or sexual relationships between individuals in a supervisory, teaching, evaluation, advising, coaching, or counseling relationship constitute a conflict of interest. The individual in the position of higher institutional authority has the responsibility to eliminate the conflict of interest. The conflict of interest must be eliminated in a way which minimizes potential for harming the individual with lower institutional authority.
- B. Faculty, staff, and **students** who are in the position to influence academic or employment decisions about others with whom they are in a romantic and/or sexual relationship must recuse themselves from such decisions.
- C. In the event of an allegation of **sexual harassment**, the university will strictly scrutinize a defense based upon **consent** when the facts establish that an institutional power differential existed within the relationship.
- D. Prohibited relationships
1. Romantic and/or sexual relationships between faculty/staff/graduate associates/undergraduate TAs and students, and between attending clinicians/supervising health care providers and residents/interns/fellows, cannot continue whenever there are supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities for the student. Alternative academic/supervisory arrangements must be made to avoid being in a prohibited relationship; if acceptable alternative arrangements are not feasible, the relationship cannot continue.
  2. Romantic and/or sexual relationships between supervisor and employee are prohibited. No individual involved in a romantic and/or sexual relationship will have direct responsibility for evaluating the performance or for making decisions regarding the hiring, promotion, tenure, compensation, or termination of the other party to the relationship. Supervisors, including faculty supervisors, must take immediate steps to make acceptable alternative arrangements regarding their supervisory responsibility for the other party to avoid an actual or apparent conflict of interest. If acceptable alternative arrangements are not feasible, the relationship cannot continue.
  3. Notification responsibilities to avoid prohibited relationships
    - a. University faculty/staff/graduate associates/undergraduate teaching assistants must notify their supervisor (e.g., dean, chair, vice president, direct supervisor, etc.) of any prohibited relationship in which they are involved; and, have a duty to cooperate in making acceptable alternative arrangements. The Office of Human Resources is available to facilitate or consult with parties about notification and making acceptable alternative arrangements.
    - b. Individuals who engage in prohibited relationships (i.e., who do not notify their supervisors and do not make acceptable alternative arrangements) are in violation of this policy. Supervisors, including faculty supervisors, who obtain information that would lead a reasonable person to believe that the II-



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- Romantic and/or Sexual Relationships section of this policy has been violated, have an institutional duty to report the violation to the Office of Human Resources.
- c. Individuals in positions of power, who engage in a series of exploitive sexual or romantic relationships, whether or not notification has occurred, may be held in violation of the II-Romantic and/or Sexual Relationships section of this policy.
  4. Making acceptable alternative arrangements means removing any supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities between the individual with institutional power and the student or employee. The alternative arrangements should avoid negative consequences for the student or employee; if acceptable alternative arrangements are not feasible, the relationship cannot continue.
  - E. Corrective action for prohibited romantic and/or sexual relationships
    1. After a thorough review of the facts, corrective action will be taken with any faculty/staff/student employee who violates II. Romantic and/or Sexual Relationships by:
      - a. Entering into or engaging in a prohibited relationship without notification and without making immediate acceptable alternative arrangements, or
      - b. Failing to follow any part of this policy, or
      - c. Failing to implement any responsibility of supervisors as identified in this policy. This applies to all supervisors, including faculty who serve in supervisory roles.
    2. The corrective action process will be in accordance with university policies, faculty rules, and/or Code of Student Conduct.
    3. An individual who promptly provides notification of a prohibited relationship and cooperates in making acceptable alternative arrangements in a timely manner will not be held in violation of the II. Romantic and/or Sexual Relationships.
  - F. Important advisory statement on romantic/sexual relationships
    1. Individuals in positions of power must be aware that romantic or sexual relationships with students are fraught with danger for exploitation and pose a legal risk to both the individual and the institution.
    2. There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions of power. These relationships may be subject to concerns about the validity of consent and unfair treatment of other students or employees. Such relationships can undermine the atmosphere of trust essential to the educational process and the employment relationship. They may, moreover, be less consensual than the individual whose position confers power believes. The apparent consensual nature of the relationship is inherently suspect due to the fundamental asymmetry of power in the relationship and it thus may be difficult to establish consent as a defense to a charge. Even when both parties consented at the outset to a romantic or sexual involvement, this past consent does not remove grounds for or preclude a charge or subsequent finding of sexual harassment based upon subsequent unwelcome conduct.
    3. The greater the institutional power differential that exists the greater risk there is for exploited consent. Exploited consent exists when consent to a relationship is given as a function of the position of power one individual occupies over another within an institution.
    4. Many international students, faculty, and staff come from cultures in which deference to any authority figure is important and sexual harassment laws do not exist. Some individuals may be especially vulnerable to exploitive relationships given cultural, language, and immigration/visa issues. Faculty, staff, and students should be very careful to avoid relationships that may be exploitive in nature.
    5. The university discourages romantic and/or sexual relationships between faculty and students due to the possibility of a power differential.
    6. The university strongly discourages romantic and/or sexual relationships between faculty and graduate students when in the same department; between faculty and undergraduate students majoring in the faculty member's area of expertise; when the faculty member has any influence over academic judgments about the student; and in any context when the perceived power differential may be significant.



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III. Employee Duty to Report

- A. The university is committed to stopping sexual misconduct, preventing its recurrence, eliminating any hostile environment, and remedying its discriminatory effects. All university employees have reporting responsibilities to ensure the university can take appropriate action.
- B. Employees with a duty to report should refer to Policy Details V (Reporting Allegations of Sexual Misconduct).
- C. All university employees, except those exempted by legal privilege of confidentiality or expressly identified as a confidential reporter, have an obligation to report incidents of **sexual assault**. Any employee who receives a disclosure of a sexual assault or becomes aware of information that would lead a reasonable person to believe that a sexual assault may have occurred involving anyone covered under this policy, must report all known information immediately.
- D. In addition to the requirement of reporting incidents of sexual assault, the following members of the university community have an additional obligation to report all other incidents of sexual misconduct, when they receive a disclosure of sexual misconduct or become aware of information that would lead a reasonable person to believe that sexual misconduct may have occurred involving anyone covered under this policy. These individuals must report the incident as soon as practicable but at most within five workdays of becoming aware of such information:
  1. Any human resource professional (HRP);
  2. Anyone who supervises faculty, staff, students, or volunteers;
  3. Chair/director; and
  4. Faculty member.
- E. Employees are not required to report disclosures of information regarding sexual misconduct pursuant to this policy in the following circumstances, unless an individual covered under this policy is implicated or the individual is explicitly seeking assistance from the university:
  1. At public survivor support events including, but not limited to: “Take Back the Night,” candlelight vigils, protests, and survivor speak-outs;
  2. To student employees when they are operating outside of their official work capacity; or
  3. During an individual’s participation as a subject in an Institutional Review Board (IRB)-approved human subjects research protocol.
- F. Employees may have additional reporting obligations provided by law and/or other university policies.
- G. The following categories of employees are exempt from the duty to report sexual assault and other sexual misconduct, due to their legal or professional privilege of confidentiality or their designation by the university as a confidential reporter.
  1. Professional and pastoral counselors
    - a. A professional counselor is a person whose official responsibilities include providing mental health counseling to members of the university community and who is functioning within the scope of that license or certification and their university employment. This definition applies even to professional counselors who are not employees of the university but are under contract to provide counseling at the university. This also includes an individual who is not yet licensed or certified as a counselor but is acting in that role under the supervision of an individual who is licensed or certified (e.g., a Ph.D. counselor-trainee acting under the supervision of a professional counselor at the university).
    - b. A pastoral counselor is a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition and their role at the university. In this context, a pastor or priest who is functioning as an athletic director or as a student advocate would not be exempt from the reporting obligations.
  2. Other employees with a professional license requiring confidentiality who are functioning within the scope of that license or certification and their university employment. For example, a physician with dual



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appointments (clinician and professor) would be required to report instances of sexual misconduct and sexual assault of which they become aware of in the scope of their employment as a professor, but while operating as a clinician must keep such information confidential and privileged by the physician-patient relationship unless there is a mandatory reporting requirement under state law.

- 3. Employees who are functioning within the scope of their university employment and who are supervised by or performing duties for university employees with a professional license requiring confidentiality, for example, student health services and medical center employees. Such employees cannot disclose confidential information but must follow reporting requirements for any non-confidential information.
- H. Corrective action may be taken against any individual who has a duty to report and who fails to respond in a manner consistent with the provisions of applicable laws, regulations, policies, and procedures.

IV. Reporting Allegations of Sexual Misconduct

- A. Contacting OIE to share all known information will satisfy the employee duty to report. OIE is the office that has authority to institute corrective measures on behalf of the university. Reports can also be made voluntarily by any university community member or individual who is directly involved in, observes, or reasonably believes that sexual misconduct or **retaliation** may have occurred. This includes allegations by third parties against any individual covered by this policy.
  - 1. Online – reporting form at [titleIX.osu.edu](http://titleIX.osu.edu) or [equity.osu.edu](http://equity.osu.edu)
  - 2. Call – 614-247-5838
  - 3. Email – [titleIX@osu.edu](mailto:titleIX@osu.edu) or [equity@osu.edu](mailto:equity@osu.edu)
  - 4. Mail – Office of Institutional Equity, St. John Arena, 410 Woody Hayes Dr., Columbus, Ohio 43210
- B. Making a report to the university does not preclude the individual from filing a report of a crime with law enforcement nor does it extend time limits that may apply in criminal processes. Individuals may request assistance from the Title IX coordinator or designee to notify law enforcement.

Agency	Contact Information
Ohio State University Police Department	614-292-2121 or 9-1-1 for emergencies <a href="http://dps.osu.edu">dps.osu.edu</a>
For regional campuses and off-campus crimes, local law enforcement agency	9-1-1 for emergencies

- C. Individuals, including members of the university community, may submit reports anonymously via the following resources. Note that anonymous reports do not fulfill an employee’s duty to report.
  - 1. The university’s Anonymous Reporting Line via telephone at 866-294-9350 or [ohio-state.ethicspoint.com](http://ohio-state.ethicspoint.com).
  - 2. Online reporting form at [titleIX.osu.edu](http://titleIX.osu.edu) or [equity.osu.edu](http://equity.osu.edu).

V. Confidentiality and Privacy

- A. The university recognizes the importance of confidentiality and privacy. See the Resources section for a list of confidential support, non-confidential support, and medical resources. Information received in connection with the reporting, investigation, and resolution of allegations will be treated as private and will only involve individuals whom the university determines are necessary to conduct an appropriate investigation, to provide assistance and resources to parties, to perform other appropriate university functions, or in accordance with applicable law.
- B. The university will maintain as confidential any **supportive measures** provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the supportive measures.
- C. The university will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual



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Applies to: Faculty, staff, students, student employees, graduate associates, suppliers/contractors, program participants, volunteers, and visitors

harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except in accordance with applicable law.

- D. If an incident is disclosed or reported to the university and the individual requests that no investigation be conducted or disciplinary action taken, the Title IX coordinator or designee or OIE director or designee will explain that the university prohibits retaliation and explain the steps the university will take to prevent and respond to retaliation if the individual participates in a resolution process. The associate vice president of OIE or designee will evaluate the request to determine whether the university can honor the request while still providing a safe and nondiscriminatory environment.
- E. A decision to proceed despite an individual's request will be made on a case-by-case basis after an individualized review, and the complainant will be notified if such a decision is made.
- F. All individuals involved in the process should observe the same standard of discretion and respect for everyone involved in the process.

#### VI. Supportive Measures

- A. Upon receipt of a report of sexual misconduct, the Title IX Coordinator or designee will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The university treats complainants and respondents equitably by offering supportive measures to both parties, if and when a respondent is identified.
- B. The Title IX coordinator or designee will conduct an individualized assessment and will review requests from either **party** to determine supportive measures that are appropriate and reasonably available. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.
- C. Supportive measures may include, but are not limited to:
  - 1. Mutual no contact directives;
  - 2. Referral to campus and community resources for advocacy, counseling, disability services, financial aid services, health services, immigration services, safety and transportation services;
  - 3. Extensions of deadlines or other course-related adjustments;
  - 4. Modification of work or class schedules;
  - 5. Change in work or housing locations;
  - 6. Change in reporting relationship;
  - 7. Consideration of leave requests;
  - 8. Assistance with academic petitions;
  - 9. Removal of a program participant, supplier/contractor, volunteer, or visitor; and
  - 10. Additional options as provided in the [Investigative Resolutions Standards](#).
- D. The university maintains as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Parties will not be required to arrange such measures by themselves but may need to participate in communication with supervisors, faculty, and other university employees with a need to know.
- E. The university will follow the investigative resolution process before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in this policy against a respondent.

#### VII. Emergency Removal

- A. The university may remove a respondent from a university's education program or activity on an emergency basis pursuant to conduct prohibited by this policy. If after review of relevant information known at the time,



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the university determines that the respondent presents an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct justifies removal, the university may remove the respondent from the university's education program or activity or any part of the university's education program or activity.

- B. The university will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- C. Nothing in this policy precludes the university from imposing an interim suspension as provided by the [Code of Student Conduct](#), if applicable.
- D. Nothing in Policy Details VII.A or B above precludes the university from placing faculty or staff on paid or unpaid administrative leave or reassignment during an investigative resolution process as provided by applicable university rules or policies.
- E. Nothing in this policy precludes the university from taking other appropriate action under separate university processes, if applicable.

#### VIII. Investigation and Resolution Options

##### A. Initial assessment

- 1. OIE reviews all reports of sexual misconduct, retaliation, false allegations, and process abuse under this policy under the direction of the Title IX coordinator or designee for an initial assessment of the reported information.
- 2. Upon completion of an initial assessment, the Title IX coordinator or designee will determine the available options for resolution and will communicate options to the parties.
- 3. The available resolution options will be guided by the availability of information or evidence suggesting that a policy violation may have occurred; OIE's decision to investigate and provide appropriate remedies to eliminate, prevent, and address the effects of the prohibited conduct; and the availability or desire of the complainant to participate in an investigation or other resolution.

##### B. Informal resolution

- 1. Informal resolution may be utilized in some circumstances where the university deems it appropriate, a formal complaint is filed, and all parties consent in writing. At any time prior to reaching a determination regarding responsibility, the university may facilitate an informal resolution process that may not involve a full investigation and hearing or other adjudication. In these circumstances, the university will:
  - a. Provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
  - b. Inform all parties of the right to withdraw from the informal resolution process and resume the investigative resolution process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
  - c. Obtain the parties' voluntary, written consent to the informal resolution process.
- 2. Informal resolution is voluntary for all parties. The university does not require anyone to waive the right to an investigation and adjudication of a formal complaint consistent with this policy as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.
- 3. The university does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- 4. Informal resolutions include instances where the respondent accepts responsibility for any or all allegations in a formal complaint.



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Applies to: Faculty, staff, students, student employees, graduate associates, suppliers/contractors, program participants, volunteers, and visitors

C. Other resolutions

1. The university reserves the right to have educational conversations and conduct informal coaching with anyone covered under this policy outside of the investigative process. Having an educational conversation does not preclude the university's ability to move forward in an investigative resolution process.
2. Such conversations are not considered an informal resolution and are not disciplinary actions.
3. Other resolutions are not limited to educational conversations and informal coaching.

D. Investigative resolution

1. OIE may resolve a formal complaint of sexual misconduct through investigative resolution when the alleged misconduct, if true, would be prohibited under applicable university policy. In instances when informal resolution is inappropriate, when any party requests, or when the university determines an investigative resolution is required, the university will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.
2. Parties have an equitable right to:
  - a. Receive notice before participating in an interview with sufficient time to prepare for meaningful participation;
  - b. Participate in a process with reasonably prompt timeframes and extensions for good cause, as described in the [Investigative Resolution Standards](#);
  - c. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
  - d. Discuss the allegations under investigation and to gather and present relevant evidence;
  - e. Receive timely and equal access to any relevant information or documentation gathered during the investigation;
  - f. Have investigators who are adequately trained to resolve cases of alleged sexual misconduct, are familiar with applicable policies and procedures, and who do not have a conflict of interest or bias for or against either party or bias for or against complainants and respondents generally; and
  - g. Have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The university may not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the university may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
3. An advisor may only provide counsel or support for a party and not actively participate in the process, except to conduct cross-examination during hearings, unless clarification is needed as determined by the university. The advisor may not engage in any conduct that would constitute harassment or retaliation against any person who has participated in an investigation and may be denied further participation if such conduct occurs.

IX. Remedies

- A. A finding of a policy violation will result in a remedy, which may include corrective action/sanctions. The university will take steps, whether individual or systemic, to stop the prohibited sexual misconduct, prevent its recurrence, eliminate any hostile environment, and remedy the discriminatory effects on the complainant and others, as appropriate.
- B. Remedies must be designed to restore or preserve equal access to the university's education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies may be disciplinary or punitive and need not avoid burdening the respondent.
- C. For Title IX formal complaints, the Title IX coordinator or designee is responsible for effective implementation of any remedies. For OIE formal complaints, the associate vice president of OIE or designee is responsible for effective implementation of any remedies.



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X. Corrective Action/Sanctions

- A. When the respondent is a student, potential sanctions include formal reprimand, disciplinary probation, suspension, dismissal, and other appropriate educational sanctions.
- B. In the event that a record of such sanction will become a part of the respondent's academic transcript, notice will be given.
- C. When the respondent is an employee, corrective actions may be taken pursuant to the [Corrective Action and Involuntary Termination policy](#), [Student Employment policy](#), applicable collective bargaining agreements, and/or [University Faculty Rule 3335-5-04](#). Disciplinary corrective actions include reduction in supervisory duties and leadership responsibilities, changes in salary, termination, and other appropriate corrective actions.
- D. In the event that a record of such corrective action will become a part of the respondent's personnel records, notice will be given.
- E. Student employees may be subject to corrective action and sanctions under both Policy Details X.A and X.C above. For instance, a student employee who is dismissed from the university under section X.A may also be subject to termination or other corrective action under section X.C.
- F. Restoring or preserving equal access to the university's education program or activity is one consideration in determining appropriate sanctions and/or corrective actions.
- G. Other remedial measures
  1. When the university is unable to proceed with investigative resolution (for example, due to a lack of information in the report or a request by the complainant that an investigation not move forward), the university may take other remedial measures as appropriate to remedy the effects of the alleged sexual misconduct and/or prevent its recurrence. Remedial measures may also be implemented when it is determined that inappropriate behavior occurred, but that the behavior did not rise to the level of a policy violation.
  2. Remedial measures may include and are not limited to:
    - a. Providing training on sexual misconduct;
    - b. Increasing security in a designated space;
    - c. Changing policy or procedure; and
    - d. Conducting climate checks.

XI. Retaliation

- A. Retaliation is prohibited by university policy and law. The university will not tolerate retaliation in any form against any individual who makes an allegation, files a report, serves as a witness, assists a complainant, or participates in an investigation of discrimination or harassment.
- B. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or suspension or dismissal of a student, independent of the merits of the underlying allegation.
- C. Action can be taken under university policy as long as it is not done for the purpose of interfering with any rights and privileges provided by this policy.
- D. The university's expectation is that employees will participate in proceedings pursuant to the policy. This expectation is subject to the rights of complainants and respondents provided by this policy, and other rights provided by applicable law. Disciplinary action for refusal to participate does not constitute retaliation.

XII. False Allegations

- A. It is a violation of this policy for anyone to knowingly or with reckless disregard for the truth make false allegations of sexual misconduct. Corrective action/sanctions may be imposed on individuals who knowingly or with reckless disregard for the truth make false allegations of sexual misconduct.
- B. The absence of a finding of a policy violation is not equivalent to a false allegation.



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XIII. Process Abuse

A. It is a violation of this policy for anyone to:

1. Obstruct, prohibit, exert improper influence over, or interfere with any individual making a report, participating in a process, or carrying out a responsibility covered by this policy;
2. Falsify or misrepresent information in or related to a process covered by this policy;
3. Disrupt or interfere with the orderly conduct of any proceeding conducted under this policy; or
4. Fail to comply with any directive, sanction, or corrective action issued pursuant to this policy.

XIV. Training

- A. All faculty, staff, student employees, graduate associates, and students are required to take annual sexual misconduct training as directed by the university.
- B. All individuals who are responsible for effectuating any part of this policy are required to be trained on the substantive requirements of Title IX.

XV. Account Holds and Notations

- A. The university may, within its discretion, place a hold on a student's account or place a notation on a student's transcript while any investigation or proceeding conducted pursuant to this policy is pending.

XVI. Directives

- A. OIE may issue directives when necessary to effectuate this policy.

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## **PROCEDURE**

Issued: 10/01/1980

Interim Revised: 08/14/2020

Revised: 09/10/2021 (minor revision to interim policy)

I. Initial Assessment

- A. OIE reviews all reports of sexual misconduct, retaliation, false allegations, and process abuse under this policy.
- B. OIE will provide rights and options to all complainants, including supportive measures, resolution options, and how to file a formal complaint, if desired.
- C. Upon completion of an initial assessment, the Title IX coordinator or designee may file a Title IX formal complaint, or an OIE director or designee may file an OIE formal complaint. When the Title IX coordinator or designee or OIE director or designee files a formal complaint, the complainant will be notified and will receive all notices and information as outlined in this policy.

II. Review of Formal Complaint

A. Written notice

1. Upon receipt of a formal complaint, the university will provide written notice to the parties who are known. That written notice must:
  - a. Explain the university's investigative resolution process, including any informal resolution options;
  - b. Describe the allegations potentially constituting misconduct, including sufficient details known at the time;
  - c. Include sufficient details, including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident, if known;



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- d. Include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
  - e. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
  - f. Inform the parties of provisions in this policy that prohibit knowingly making false statements or knowingly submitting false information during the grievance process; and
  - g. Be provided with sufficient time for the parties to prepare a response before any initial interview.
2. If, in the course of an investigation, the university decides to investigate allegations about the complainant or respondent that are not included in the notice, the university must provide notice of the additional allegations to the parties whose identities are known.
- B. Dismissal of an OIE formal complaint
1. If the alleged behavior in an OIE formal complaint, if true, does not meet the definition of a policy violation, an OIE director or designee may dismiss the formal complaint.
  2. The university, at its discretion, may dismiss an OIE formal complaint or any allegations therein, if at any time during the investigation or hearing a complainant notifies OIE in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled at or employed by the university; or specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
  3. If the formal complaint is dismissed, the investigative process will cease, but a remedy may still be appropriate.
  4. Upon a dismissal, the matter may be referred to other resolution processes or other appropriate university processes or action.
- C. Dismissal of a Title IX formal complaint
1. The university must investigate the allegations in a Title IX formal complaint. If the conduct alleged in the Title IX formal complaint would not constitute sexual harassment under Title IX even if proved, did not occur in the university's education program or activity, or did not occur against a person in the United States, then the university must dismiss the Title IX formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. Such a dismissal does not preclude action under another provision of this policy or another university policy.
  2. The university, at its discretion, may dismiss a Title IX formal complaint or any allegations therein, if at any time during the investigation or hearing a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled at or employed by the university; or specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
  3. Upon a dismissal, the university must promptly send written notice of the dismissal and reason(s) simultaneously to the parties. The matter may be referred and reviewed under the OIE formal complaint process or other appropriate university process.
- D. Consolidation of formal complaints
1. The university, at its discretion, may consolidate formal complaints as to allegations against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances. This consolidation may include some or all of the investigation, resolution, or hearing.
  2. Where an investigative resolution process involves more than one complainant or more than one respondent, references in this policy to the singular "party," "complainant," or "respondent" include the plural, as applicable.



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- E. Conduct that may violate other university policies
  - 1. When reported conduct may violate this policy and other university policies, the associate vice president of OIE or designee will consult with the appropriate university office(s) to determine how the matter should be investigated and adjudicated. This may, but is not required to, involve a joint investigation by more than one office.
  - 2. The office or process used to investigate and adjudicate the matter is within the sole discretion of the university except as required by other applicable university rules or policies, but procedures set forth in this policy will be used to investigate and adjudicate alleged violations of this policy. The associate vice president of OIE or designee may refer possible violations of other university policies to an appropriate office at any time.

### III. Investigation of a Formal Complaint

- A. A typical investigation will be completed within a reasonably prompt timeframe as described in the [Investigative Resolutions Standards](#).
- B. The investigation generally will include interviews with the parties, relevant witnesses, and a review of relevant documents and other available evidence.
- C. When investigating a formal complaint and throughout the investigative resolution process, the university will:
  - 1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the university and not on the parties.
  - 2. For Title IX matters, obtain a party's voluntary, written consent to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, in the investigative resolution process.
  - 3. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
  - 4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
  - 5. Provide parties the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit such choice or presence for either party.
    - a. The university may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
  - 6. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings or proceedings with sufficient time for the party to prepare to participate.
  - 7. Provide parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
    - a. Prior to completion of the investigative report, the university must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format.
    - b. The parties must have at least ten business days to submit a written response, which the investigator will consider prior to completion of the investigative report.



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8. Provide an investigative report that fairly summarizes relevant evidence, in a format determined by the university, at least ten business days prior to a hearing or other time of determination regarding responsibility to each party and each party's advisor, if any, for their review and written response.

#### IV. Hearings

- A. Hearings are available for OIE formal complaints involving student respondents and Title IX formal complaints.
- B. The university will offer the parties a hearing. At the hearing, the resolutions officer or designee will permit cross-examination of a party and any witnesses, which includes all relevant questions and follow-up questions, including those challenging credibility.
  1. The university must make all evidence previously provided to the parties available for inspection and review at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
  2. For Title IX matters, cross-examination at the hearing must be conducted by the party's advisor of choice and never by a party personally.
  3. The university prohibits advisors from participating in the hearing outside of conducting cross-examination.
- C. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the resolutions officer or designee(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- D. If a party does not have an advisor present at the hearing, the university will provide without fee or charge to that party, an advisor of the university's choice to conduct cross-examination on behalf of that party for Title IX matters.
- E. The resolutions officer or designee(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

#### V. Adjudicating OIE Formal Complaints Not Involving Student Respondents

- A. For all OIE formal complaints not covered by Procedure IV above, following an investigation, a written determination will be issued as explained in Procedure VI below, excluding cases with respondents who are suppliers/contractors, volunteers, and visitors.
- B. In cases involving staff, any subsequent corrective action will be implemented by the employee's supervisor, Employee and Labor Relations, and/or other Human Resources professional as appropriate.
- C. In cases involving faculty, formal misconduct complaints regarding policy violations or other inappropriate behavior must be pursued through the University [Faculty Rule 3335-5-04](#) process, as applicable and non-disciplinary measures may be implemented by the faculty member's chair or dean if appropriate.
- D. If an employee respondent is found not to be responsible for violating the policy, Employee and Labor Relations may determine that the employee respondent engaged in conduct that was inappropriate or unprofessional and recommend appropriate action.
- E. OIE reserves the right to take immediate action when the alleged is a program participant, supplier/contractor, volunteer, or visitor. The university's disciplinary response may be limited if the respondent is a visitor or other third-party or is not subject to the university's jurisdiction.



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VI. Determination Regarding Responsibility for All Formal Complaints

- A. The resolutions officer or designee(s) will issue a written determination regarding responsibility using the preponderance of the evidence standard in all cases.
- B. The written determination will include:
  1. Identification of the allegations potentially constituting sexual misconduct;
  2. For Title IX formal complaints only, a description of the procedural steps taken from the receipt of the Title IX formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  3. Findings of fact supporting the determination;
  4. Conclusions regarding the application of the policy to the facts;
  5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.
  6. For Title IX formal complaints, additional information as to any disciplinary sanctions the university imposes on the respondent and whether remedies designed to restore or preserve equal access to the university's education program or activity will be provided by the university to the complainant; and
  7. The university's procedures and bases for the parties to appeal.
- C. The university must provide the written determination to the parties simultaneously.
- D. For OIE formal complaints, the sanctions and remedies may be issued at a subsequent time outside of the written determination, and the parties will be informed of the outcome and imposed sanction or corrective action in accordance with the Family Educational Rights and Privacy Act (FERPA) and other applicable law.
- E. The determination regarding responsibility becomes final either on the date that the university provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

VII. Appeals of Formal Complaint Resolution

- A. The university will offer both parties an appeal from a determination regarding responsibility, and from a dismissal of a formal complaint or any allegations therein, on the following bases:
  1. Procedural irregularity that affected the outcome of the matter;
  2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
  3. The Title IX Coordinator or OIE director as applicable, investigator(s), or resolutions officer or designee(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent specifically that affected the outcome of the matter; and/or
  4. The sanction is clearly inappropriate and is not commensurate with the seriousness of the offense.
- B. The party requesting the appeal must clearly articulate that their request falls within one of the bases for appeal. The director of education and engagement in OIE or designee so long as that person is not involved in the case as the assigned investigator or resolutions officer will perform an initial review of the appeal.
- C. Where the director of education and engagement in OIE or designee finds that at least one of the bases is clearly articulated, the appeal will proceed through the appeals process, which includes:
  1. An appeals officer who is adequately trained to review appeals in cases of alleged sexual misconduct, is familiar with applicable policies and procedures, and who does not have a conflict of interest or bias for or against either party or bias for or against complainants and respondents generally;
  2. Notifying the other party in writing when an appeal is filed and implementing appeal procedures equally for both parties;
  3. Giving both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
  4. Issuing a written decision describing the result of the appeal and the rationale for the result; and
  5. Providing the written decision simultaneously to both parties.



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- D. Where the director of education and engagement in OIE or designee does not find that one of the bases is clearly articulated, they will deny the appeal. In such instances, the findings will stand, and the rebuttal will be retained in the investigation file. A party must provide specific information to articulate that one or more of the grounds of appeal could be met. Vague or blanket assertions or assertions unsupported by specific facts or information will be denied.
- E. Regardless of whether a party is able to articulate a basis for appeal, or chooses not to submit an appeal, they may submit a rebuttal that will be maintained as part of the investigation file.

VIII. Additional Guidance

- A. OIE establishes standard protocols for responding to and resolving complaints of sexual misconduct.

**Responsibilities**

Position or Office	Responsibilities
Anyone who supervises faculty, staff, students, or volunteers	<ol style="list-style-type: none"> <li>1. Fulfill reporting obligations as outlined in this policy.</li> <li>2. Report violations of the Romantic and/or Sexual Relationships section of the policy to Office of Human Resources.</li> <li>3. Respect the privacy and reputation of all parties.</li> <li>4. Refer to Investigative Resolution Standards for detailed investigation rights, options, and procedures.</li> </ol>
Faculty, staff, student employees, and graduate associates	<ol style="list-style-type: none"> <li>1. Conduct yourself in a manner that maintains an environment free from sexual misconduct.</li> <li>2. Fulfill reporting obligations as outlined in this policy.</li> <li>3. Recuse yourself from influencing or making academic or employment decisions about others with whom you are in a romantic and/or sexual relationships.</li> <li>4. Notify your supervisor of any prohibited relationship in which you are involved or considering starting; cooperate in making alternative arrangements; end the relationship if acceptable alternative arrangements cannot be made.</li> <li>5. Complete annual sexual misconduct training as directed by the university.</li> </ol>
Human resource professional (HRP)	<ol style="list-style-type: none"> <li>1. Fulfill reporting obligations as outlined in this policy.</li> <li>2. Address all concerns promptly and thoroughly.</li> <li>3. Respect the privacy and reputation of all parties.</li> </ol>
Office of Human Resources (OHR). Employee and Labor Relations	<ol style="list-style-type: none"> <li>1. Fulfill reporting obligations as outlined in this policy.</li> <li>2. Consult, recommend, and assist in the implementation of employee corrective action as a result of an investigation.</li> <li>3. Monitor action steps and/or corrective action.</li> <li>4. Facilitate or consult with parties about notification and making acceptable alternative arrangements regarding prohibited relationships.</li> </ol>
Office of Institutional Equity	<ol style="list-style-type: none"> <li>1. Oversee all sexual misconduct reports and investigations.</li> <li>2. Ensure that investigations are conducted consistent with procedures laid out in this policy.</li> <li>3. Oversee the process of a report, investigation, and resolution.</li> <li>4. Provide and coordinate supportive measures.</li> <li>5. Notify the complainant in advance when the university determines to pursue an investigation when the complainant is reluctant to proceed.</li> <li>6. Notify the parties of their right to end the informal resolution process at any time, to begin the formal stage, or choose not to further pursue the matter.</li> <li>7. Inform the complainant that the ability to investigate may be limited if they do not want to pursue a formal investigation.</li> <li>8. Oversee the communication of the written determination to the parties.</li> <li>9. Ensure appropriate action steps, corrective action, and/or sanctions are issued.</li> <li>10. Address all concerns promptly and thoroughly.</li> <li>11. Oversee effective implementation of any remedies.</li> <li>12. Respect the privacy of all parties.</li> <li>13. Evaluate requests for no investigation to be conducted or disciplinary action taken to determine whether the university can honor the request while still providing a safe and nondiscriminatory environment. Direct individuals to available university and/or community support resources as needed.</li> </ol>



Applies to: Faculty, staff, students, student employees, graduate associates, suppliers/contractors, program participants, volunteers, and visitors

Position or Office	Responsibilities
	14. Ensure that individuals who are responsible for effectuating any part of this policy are trained on the substantive requirements of Title IX. 15. Coordinate investigations with University Police as necessary. 16. Periodically review reports to identify any patterns of sex- or gender-based discrimination. 17. Develop and implement regular university-wide events to raise awareness about all forms of sexual misconduct. 18. Develop and implement periodic Title IX training for the university community. 19. Periodically review Title IX related policies and procedures to ensure that they are an efficient resource for the university. 20. Refer to Investigative Resolution Standards for detailed investigation rights, options, and procedures.
Students	1. Conduct yourself in a manner that maintains an environment free from sexual misconduct. 2. Follow process to make a complaint or report allegations of sexual misconduct. 3. Refer to Investigative Resolution Standards for detailed investigation rights, options, and procedures. 4. Complete annual sexual misconduct training as directed by the university.
Suppliers/contractors program participants, volunteers, and visitors	1. Conduct yourself in a manner that maintains an environment free from sexual misconduct. 2. Follow process to make a complaint or report allegations of sexual misconduct. 3. Refer to Investigative Resolution Standards for detailed investigation rights, options, and procedures as applicable.

**Resources**

**Support and Medical Resources**

For information about support resources, including confidential and non-confidential, and medical resources, visit [equity.osu.edu](http://equity.osu.edu) or [titleIX.osu.edu](http://titleIX.osu.edu).

**Governance Documents**

- Affirmative Action, Equal Employment Opportunity and Non-Discrimination/Harassment 1.10 policy, [policies.osu.edu/assets/docs/policy\\_pdfs/AffirmativeActionEqualEmploymentOpportunityandNon-Discrimination-Harassment\\_FINAL.pdf](http://policies.osu.edu/assets/docs/policy_pdfs/AffirmativeActionEqualEmploymentOpportunityandNon-Discrimination-Harassment_FINAL.pdf)
- Code of Student Conduct, [studentaffairs.osu.edu/csc/](http://studentaffairs.osu.edu/csc/)
- Corrective Action and Involuntary Termination 8.15 policy, [hr.osu.edu/policy/policy815.pdf](http://hr.osu.edu/policy/policy815.pdf)
- General Records Retention Schedule, [library.osu.edu/documents/records-management/general-schedule.pdf](http://library.osu.edu/documents/records-management/general-schedule.pdf)
- Investigative Resolution Standards, [equity.osu.edu/sites/default/files/investigative\\_resolution\\_standards.pdf](http://equity.osu.edu/sites/default/files/investigative_resolution_standards.pdf)
- Rules for Classified Civil Service, [hr.osu.edu/policy/ccs/](http://hr.osu.edu/policy/ccs/)
- Rules of the University Faculty, 3335-5-04, [trustees.osu.edu/bylaws-and-rules/3335-5](http://trustees.osu.edu/bylaws-and-rules/3335-5)
- Student Employment 10.10 policy, [hr.osu.edu/policy/policy1010.pdf](http://hr.osu.edu/policy/policy1010.pdf)
- Workplace Violence, 7.05 policy, [hr.osu.edu/wp-content/uploads/policy705.pdf](http://hr.osu.edu/wp-content/uploads/policy705.pdf)

**Additional Guidance**

- Frequently Asked Questions, [equity.osu.edu/sites/default/files/sexual\\_misconduct\\_policy\\_faq.pdf](http://equity.osu.edu/sites/default/files/sexual_misconduct_policy_faq.pdf)
- Nondiscrimination Notice, [equity.osu.edu/sites/default/files/policy110-non-discrimination-notice.pdf](http://equity.osu.edu/sites/default/files/policy110-non-discrimination-notice.pdf)
- OIE website, [equity.osu.edu](http://equity.osu.edu)
- Prevention and Policy training for faculty, staff, and students, [titleIX.osu.edu/navigation/prevention/training.html](http://titleIX.osu.edu/navigation/prevention/training.html)
- Task Force Examining the Policy on Consensual Relationships Report and Recommendations, [hr.osu.edu/policy/resources/115report.pdf](http://hr.osu.edu/policy/resources/115report.pdf)
- Title IX website, [titleIX.osu.edu](http://titleIX.osu.edu)



Applies to: Faculty, staff, students, student employees, graduate associates, suppliers/contractors, program participants, volunteers, and visitors

**Contacts**

Subject	Office	Telephone	E-mail/URL
Policy questions	Office of Institutional Equity	614-247-5838	<a href="mailto:equity@osu.edu">equity@osu.edu</a> <a href="http://equity.osu.edu">equity.osu.edu</a>
To make a report	Office of Institutional Equity	614-247-5838	<a href="mailto:titleIX@osu.edu">titleIX@osu.edu</a> <a href="mailto:titleIX.osu.edu">titleIX.osu.edu</a> <a href="mailto:equity@osu.edu">equity@osu.edu</a> <a href="http://equity.osu.edu">equity.osu.edu</a>
Anonymous report	Anonymous Reporting Line (does not satisfy employee duty to report)	866-294-9350	<a href="http://ohio-state.ethicspoint.com">ohio-state.ethicspoint.com</a>
Criminal report	University Police (to report criminal activity only; does not satisfy employee duty to report)	911 (emergency) 614-292-2121(non-emergency)	<a href="http://dps.osu.edu">dps.osu.edu</a>
Title IX questions	Title IX coordinator, Office of Institutional Equity	614-247-5838	<a href="mailto:titleIX@osu.edu">titleIX@osu.edu</a> <a href="mailto:titleIX.osu.edu">titleIX.osu.edu</a>
ADA questions and reasonable accommodations	ADA Coordinator, Office of Institutional Equity	614-292-6207	<a href="mailto:ada-osu@osu.edu">ada-osu@osu.edu</a> <a href="http://ada.osu.edu">ada.osu.edu</a>

**History**

Issued:	10/01/1980	Issued as Sexual Harassment
Revised:	01/06/1983	
Revised:	11/05/1993	
Edited:	01/15/1997	
Edited:	10/31/1997	
Revised:	07/08/2000	
Revised:	01/01/2004	
Revised:	07/01/2006	
Edited:	12/01/2013	
Interim Revised:	09/01/2015	Renamed Sexual Misconduct, Sexual Harassment, and Relationship Violence
Revised:	08/23/2016	Renamed Sexual Misconduct
Interim Revised:	08/01/2019	Transferred ownership from Office of Human Resources to Office of Institutional Equity
Edited:	11/06/2019	Added OIE website and email
Interim Revised:	08/14/2020	
Revised:	09/10/2021	Minor revision to interim policy in Procedure section only