



Meena Morey Chandra
Office for Civil Rights
Cleveland Office
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115

August 20, 2015

**Re: The Ohio State University Resolution Agreement
Tenth Progress Report**

Dear Ms. Morey Chandra,

Pursuant to the Resolution Agreement entered into by the U.S. Department of Education's Office for Civil Rights (OCR) and The Ohio State University (Ohio State), Ohio State committed to report on progress towards meeting the various requirements outlined in the Agreement. This letter serves as our tenth such report.

COMPLETED REQUIREMENTS

Section III: Title IX Policies, Procedures, and Related Written Materials (Agreement pp. 4-9)

Requirement: This section requires Ohio State to review and revise policies and procedures relevant to allegations of sex discrimination.

Response: As previously reported in the progress reports dated October 15, 2014 and January 26, 2015, Ohio State convened a working group of personnel from the Offices of Student Life, Human Resources, Legal Affairs, and University Compliance and Integrity to conduct a comprehensive review of university policies and procedures relevant to sexual harassment. The working group reviewed and revised the relevant policies to align with the requirements described in the Resolution Agreement. Based on OCR's April 27, 2015 letter and telephone calls with your office on June 8, 2015 and July 15, 2015, the working group has continued to revise the relevant draft policies with a revised September 15, 2015 deadline as OCR permitted. Outstanding items from your letter are detailed below and updated draft revisions are enclosed with this report for your review and approval.

Item III.B: OCR's April 27 letter stated that before it can find the university in full compliance with Item III.B.1, requiring all university policies, procedures, guidelines, and other documents to be internally consistent and free from conflicting/contradictory information, the university must address the concerns noted in that letter regarding Items III.B.6 and III.B.11.

During our July 15 telephone call, your colleagues clarified some of the issues mentioned in OCR's April 27 letter. As a result, we have modified the policies specifically identified in your letter. These modifications are highlighted in the attached documents and detailed in the attached spreadsheet reflecting, in part, our telephone conversations with your office.

Item III.B.6: OCR's April 27 letter indicated that Item III.B.6 is outstanding because of the use of the word "unreasonably" in the definition of "sexual harassment" in the Sexual Misconduct, Sexual Harassment, and Relationship Violence policy ("policy 1.15"). The university has remedied this by using a definition for "sexual harassment" in the *employment context* and a separate definition in the *education context*. See pp. 1-2 of policy 1.15. The Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment policy ("policy 1.10") has excepted "sexual harassment" from its definition of "harassment," specifically directing users to policy 1.15 for that definition. The Code of Student Conduct will be revised consistent with policy 1.15 as soon as practical after OCR approval of the policies, as that document is part of the Ohio Administrative Code and requires a formal review and approval process including multiple university governance groups. Other documents, including but not limited to the Sexual Misconduct Response Guidelines and sexual violence education materials published by Student Advocacy (formerly the Student Wellness Center), will be updated consistent with the definitions in policy 1.15, once approved by OCR.

Item III.B.11: OCR's April 27 letter indicated that Item III.B.11 is outstanding because of concerns with inconsistencies in the employee duty to report between policy 1.15, the Investigation Guidelines (formerly "Guidelines for Reporting, Investigating, and Resolving Complaints of Discrimination and Harassment"), and the Sexual Violence Response Guidelines. In our January 26, 2015 report to your office, the Investigation Guidelines attached were missing an additional header indicating that they no longer apply to reports, complaints, or investigations of sexual misconduct (including sexual harassment and other specified sex- and gender-based discrimination). All relevant information (e.g., investigation standards, etc.) from the Investigation Guidelines was removed from that document and placed directly in policy 1.15. The Investigation Guidelines attached include the correct header, clearly indicating they no longer apply to policy 1.15. The Sexual Misconduct Response Guidelines and other documents providing reporting information will be updated consistent with policy 1.15, once approved by OCR.

OCR's April 27 letter also indicated that this item is incomplete because the documents do not specify what types of sex discrimination/harassment should be reported to which university office/officer. The attached policy 1.15 directs any and all reports to the Title IX coordinator or to deputy Title IX coordinators in Human Resources (for employee-involved issues) or Student Conduct (for student-involved issues). The attached policy 1.15 clearly indicates where to report which type of sex discrimination/harassment (e.g., employee sexual misconduct, student sexual misconduct) for employees with a duty to report (p. 6) and anyone covered by policy 1.15 (p. 10).

Lastly, OCR's April 27 letter correctly identified that the location of information regarding where employees should report was a formatting error. The attached policy 1.15 clearly indicates where employees with a duty to report should make such reports (p. 6).

Item III.B.15: OCR's April 27 letter indicated that the university must specify timeframes for major stages of the investigation beyond the 60-day calendar timeframe. The attached policy 1.15 details timeframes for the four major stages of the investigation process and factors that may affect the timeframes (p.10). The Code of Student Conduct will be revised consistent with policy 1.15 as soon as practical after OCR approval of the policies, as that document is part of the Ohio Administrative Code and requires a formal review and approval process including multiple university governance groups.

We believe that this response constitutes full compliance with all requirements defined in Section III.B of the Resolution Agreement. As your staff kindly agreed during the July 15 telephone call, we appreciate any expedited review you might provide, as interim revised policy 1.15 will be included in the university's online training to the university community this fall. Although we understand the need to present an approved version of the revised policy 1.15 to the community during this training, we also

want to present training to our students during the first few weeks of the semester, which is the most critical time for campus sexual violence awareness and prevention initiatives.

As we also discussed during that telephone call, the university has presented to its governance bodies the proposed revisions to policies 1.10, 1.15, 7.05, and 10.10 with a proposed effective date of September 1, 2015. Ohio State will fully implement the revised policies and certify implementation in a report to you within 60 days of receiving your approval.

Item V.C: Climate Assessments and Response (Agreement pp. 11-12)

Requirement: This section requires Ohio State to conduct a climate check by June 15, 2015 and annually thereafter with students to assess the effectiveness of steps taken pursuant to the Resolution Agreement, or otherwise by the university, to achieve its goals of a campus free of sexual harassment, particularly sexual violence.

Response: Based on our interpretation of emails between the university and your office on November 20, 2014, we understood that OCR had granted permission to use the AAU national survey tool with specific customizations for each university/college participant. During our June 8, 2015 telephone call, the university described the AAU survey that had been administered to all Ohio State students during April 2015, given the prior discussion with your office. Your office requested a copy of the final survey tool administered by AAU, which was provided via email on June 25, 2015 with a hyperlink to the survey hosted by AAU. We believe that this final survey addresses the concerns identified in OCR's April 27 letter regarding Item V.C. of the Resolution Agreement.

Ohio State will continue to demonstrate its long-standing commitment to vigorously addressing sexual assault and sexual harassment on its campuses, including by taking effective steps to stop sexual misconduct, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects on the complainant and any others as appropriate. We will continue to meet our requirements under the Resolution Agreement, and report progress to you.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Gates Garrity-Rokous
Vice President and Chief Compliance Officer

Enclosures:

- Policy Revision Chart
- Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, policy 1.10
- Sexual Misconduct, Sexual Harassment, and Relationship Violence, policy 1.15
- Investigation Guidelines

cc: President Michael V. Drake, M.D.
Christopher Culley, Senior Vice President, General Counsel and Senior Advisor to the President
Kellie Brennan, Title IX Coordinator
Kelly Marie Johnson, OCR Team Leader (via email)
Erin Barker Brown, OCR Attorney (via email)
OCRCleMonitoringReports@ed.gov

Policy Revisions

Prior Language and Newly Revised Language

Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, policy 1.10			
Resolution Agreement Item	Prior Language (submitted 1/26/2015)	Newly Revised Language	OCR discussion and resolution
<p>III.B.6 From OCR letter 4/27/2015 (p. 3): Use of the word "unreasonably" in definition of "sexual harassment" is inappropriate and should be deleted. Where appropriate, documents may refer to different definitions of "sexual harassment" in the employment context.</p>	<p>Definitions Chart Harassment (p. 1): "(1) Unwelcome, protected status-based verbal or physical conduct that (2) is sufficiently severe, persistent or pervasive that (3) it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the university's education and employment programs and activities; and (4) is based on power differentials (quid pro quo) or the creation of a hostile environment.</p> <p>See Sexual Misconduct, Sexual Harassment, and Relationship Violence, Policy 1.15, for additional information on the definition of sexual harassment."</p>	<p>Definitions Chart Harassment (p. 1): "(1) Unwelcome, protected status<u>class</u>-based verbal or physical conduct that (2) is sufficiently severe, persistent or pervasive that (3) it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the university's education and employment programs and activities; and (4) is based on power differentials (quid pro quo) or the creation of a hostile environment.</p> <p><u>* This definition does not include sexual harassment.</u> See Sexual Misconduct, Sexual Harassment, and Relationship Violence policy 1.15, for <u>additional information on</u> the definition of sexual harassment."</p>	<p>During July 15 telephone call, OCR indicated that university could separate its definition to meet Title IX requirements and remain consistent with Title VII standards and guidance.</p> <p>The university has remedied this by excepting "sexual harassment" from its definition of "harassment," specifically directing users to policy 1.15 for that definition.</p>
Sexual Misconduct, Sexual Harassment, and Relationship Violence, policy 1.15			
Resolution Agreement Item	Prior Language (submitted 1/26/2015)	Newly Revised Language	OCR discussion and resolution
<p>III.B.6 From OCR letter 4/27/2015 (p. 3): Use of the word "unreasonably" in definition of "sexual harassment" is inappropriate and should be deleted. Where appropriate, documents may refer to different definitions of "sexual harassment" in the employment context.</p>	<p>Definitions Chart Sexual Harassment (pp 1-2): "Unwelcome, sex- or gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits an individual's ability to participate in or benefit from the university's education and employment programs and activities, and is based on: power differentials (quid pro quo) or the creation of a hostile environment. ... B. Hostile environment includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits, interferes with or denies educational benefits or opportunities, from both a subjective (the complainant's) and an objective (reasonable person's) viewpoint. ..."</p>	<p>Definitions Chart Sexual Harassment (pp. 1-2): <u>"In the employment context, sexual harassment is u</u>Unwelcome, sex- or gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits an individual's ability to participate in or benefit from the university's education and employment programs and activities, and is based on: an individual's work performance or creates an intimidating, hostile or offensive work environment. It can take two forms: power differentials (quid pro quo) or the creation of a hostile environment. <u>In the education context, sexual harassment is</u> unwelcome, sex- or gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it interferes with, denies or limits an individual's ability to participate in or benefit from the university's educational programs and activities. ... B. Hostile environment <u>in the employment context</u> includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits, interferes with or denies educational benefits or opportunities<u>unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment; hostile environment in the education context includes any situation in which there is harassing conduct that limits, interferes with or denies educational benefits or opportunities,</u> from both a subjective (the complainant's) and an objective (reasonable person's) viewpoint. ..."</p>	<p>During July 15 telephone call, OCR indicated that university could separate its definition to meet Title IX requirements and remain consistent with Title VII standards and guidance.</p> <p>The university has remedied this by using a definition for "sexual harassment" in the <i>employment context</i> and a separate definition in the <i>education context</i>.</p> <p>The Investigation Guidelines no longer apply to this policy, and are therefore not in conflict.</p>

Policy Revisions

Prior Language and Newly Revised Language

Sexual Misconduct, Sexual Harassment, and Relationship Violence, policy 1.15 (cont.)			
Resolution Agreement Item	Prior Language (submitted 1/26/2015)	Newly Revised Language	OCR discussion and resolution
<p><u>III.B.11</u> From OCR letter 4/27/2015 (pp. 3-4): 1) Documents are not consistent with respect to where (office/officer) employees should report sex discrimination/harassment. 2) Documents do not specify what types of sex discrimination/harassment should be reported to which office. 3) Location of information about where employees should report sex discrimination/harassment is at the end of a section specific to only certain employees.</p>	<p><u>Policy Details</u> III. Employee Duty To Report (pp. 6-7): "D. ...confidentialEmployees with a duty to report may make such reports in the following formats: 1. Contact the Title IX coordinator or deputy coordinator; or 2. Contact the Office of Human Resources by calling 614-292-2800, filing a Discrimination and Harassment Complaint form; or emailing sexualharassment@osu.edu; or 3. Contact the Office of Student Conduct by calling 614-292-0748 or emailing studentconduct@osu.edu."</p>	<p><u>Policy Details</u> III. Employee Duty To Report (p. 6): "...confidentialC. Employees with a duty to report may make such reports in the following formats: 1. Contact<u>To report any information regarding sexual misconduct, contact the Title IX coordinator by emailing titleix@osu.edu;</u> or 2. Contact<u>To report allegations of employee sexual misconduct, contact the deputy Title IX coordinator in</u> the Office of Human Resources by calling 614-292-2800 (<u>medical center employees contact 614-293-4988</u>), filing a Discrimination and Harassment Complaint form; or emailing sexualharassment@osu.edu; or 3. Contact<u>To report allegations of student sexual misconduct, contact the deputy Title IX coordinator in</u> the Office of Student Conduct by calling 614-292-0748 or emailing studentconduct@osu.edu."</p>	<p>Pursuant to your April 27 letter, the university has remedied this by:</p> <ol style="list-style-type: none"> 1) Directing any and all reports to the Title IX coordinator or to deputy Title IX coordinators in Human Resources (for employee-involved issues) or Student Conduct (for student-involved issues), 2) Clearly indicating where to report which type of sex discrimination/harassment (e.g., employee sexual misconduct, student sexual misconduct) for employees with a duty to report, and 3) Moving the information about where employees should report up in the Employee Duty To Report section. <p>The Investigation Guidelines no longer apply to this policy, and are therefore not in conflict.</p>
<p><u>III.B.15</u> From OCR letter 4/27/2015 (pp. 4-5): Documents do not include timeframes for the major stages of the investigation.</p>	<p><u>Policy Details</u> VII. Investigation and Resolution (pp. 8-9): "6. A typical investigation takes approximately 60 calendar days following receipt of the complaint. This will vary depending on the complexity of the investigation and the severity and extent of the sexual misconduct. 7. The 60 calendar day timeframe refers to the entire investigation process, which includes receipt of the complaint; the fact-finding investigation; holding a hearing or engaging in another decision-making process to determine whether the alleged sexual misconduct occurred and created a hostile environment; issuing written notice of the finding of the investigation; and determining what actions the university will take to eliminate the hostile environment, prevent its recurrence, and remedy its discriminatory effects, including imposing sanctions against the accused and providing remedies for the complainant and university community, as appropriate."</p>	<p><u>Procedures</u> VI. Conducting Investigations (p. 10): "E. A typical investigation will take approximately 60 calendar days following receipt of the complaint. This will vary depending on the complexity of the investigation and the severity and extent of the alleged sexual misconduct. <u>When in an individual case the following timeframes cannot be met for legitimate reasons, the parties will be informed when and why they will not be met.</u> 1. The 60 calendar day timeframe refers to the entire investigation process, which includes receipt of the complaint; the fact-finding investigation; holding a hearing or engaging in another decision-making process to determine whether the alleged sexual misconduct occurred and created a hostile environment; issuing written notice of the finding of the investigation; and determining what actions the university will take to eliminate the hostile environment, prevent its recurrence, and remedy its discriminatory effects, including imposing sanctions against the accused and providing remedies for the complainant and university community, as appropriate and is not limited to: <u>a. Initiating the investigation including contacting the complainant for an intake interview (7 days);</u> <u>b. Conducting the fact-finding investigation (33 days);</u> <u>c. Holding a hearing or engaging in another decision-making process to determine whether a policy violation has occurred (10 days); and</u> <u>d. Determining what actions the university will take to eliminate the hostile environment, prevent its recurrence, and remedy its discriminatory effects, including imposing sanctions against the accused and providing remedies for the complainant and university community, as appropriate, and issuing written notice of the finding of the investigation (10 days).</u> 2. Other factors may affect one or more parts of the timeframe, including and not limited to, the complexity, severity, and extent of the alleged sexual misconduct. <u>The process may be extended if necessary due to illness, holidays, unavailability of parties or witnesses, complexity of the case, or competing demands on investigators or decision makers."</u></p>	<p>During July 15 telephone call, OCR clarified that the 60 day timeframe applies equally in the educational and employment contexts.</p> <p>The university has remedied this by adding specific timeframes for each of the major investigation stages. The university also added language addressing what the university will do when timeframes are not met, and outlining factors that may affect the timeframe.</p>

Policy Revisions

Prior Language and Newly Revised Language

Investigation Guidelines			
Resolution Agreement Item	Prior Language (submitted 1/26/2015)	Newly Revised Language	OCR discussion and resolution
<p><u>III.B.6</u> From OCR letter 4/27/2015 (p.3): Use of the word "unreasonably" in definition of "sexual harassment" is inappropriate and should be deleted. Where appropriate, documents may refer to different definitions of "sexual harassment" in the employment context.</p>	NA	NA	As mentioned above, the university has remedied this by including in policy 1.15 all relevant information from the Investigation Guidelines. The Investigation Guidelines now include the correct header, clearly indicating they no longer apply to policy 1.15.
<p><u>III.B.11</u> From OCR letter 4/27/2015 (pp. 3-4): 1) Documents are not consistent with respect to where (office/officer) employees should report sex discrimination/harassment. 2) Documents do not specify what types of sex discrimination/harassment should be reported to which office. 3) Location of information about where employees should report sex discrimination/harassment is at the end of a section specific to only certain employees.</p>	NA	NA	As mentioned above, the university has remedied this by including in policy 1.15 all relevant information from the Investigation Guidelines. The Investigation Guidelines now include the correct header, clearly indicating they no longer apply to policy 1.15.



Applies to: Faculty, staff, students, student employees, graduate associates, volunteers, and applicants

Responsible Office

Office of Human Resources

POLICY

Issued: 10/01/1973

Revised: 09/01/2015

The Ohio State University is committed to building and maintaining a diverse community to reflect human diversity and to improve opportunities for all. The university is committed to equal opportunity, **affirmative action**, and eliminating **discrimination**. This commitment is both a moral imperative consistent with an intellectual community that celebrates individual differences and diversity, as well as a matter of law.

Ohio State does not discriminate on the basis of age, ancestry, color, disability, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, race, religion, sex, sexual orientation, protected veteran status, or any other bases under the law, in its activities, programs, admission, and employment.

Purpose of the Policy

To establish a policy promoting **equal employment opportunity** and prohibiting discrimination based upon law, including and not limited to: Americans with Disabilities Act, Age Discrimination Act of 1975, Age Discrimination in Employment Act, Genetic Information Nondiscrimination Act, Pregnancy Discrimination Act, Rehabilitation Act of 1973, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Vietnam Era Veterans' Readjustment Assistance Act of 1974 and any other laws related to equal opportunity.

Definitions

Term	Definition
Affirmative Action	Affirmative action is required under Executive Order 11246. It is designed to promote equal employment opportunity for protected class members in all policies and decisions affecting recruitment, selection, assignment, promotion, training, transfer, demotion, layoff, recall, termination, rates of pay or other forms of compensation, and all other terms and conditions of employment.
Applicant	An individual who has applied for a specific position at Ohio State, meets the basic qualifications for the position, is considered by the university for the position, and does not voluntarily remove herself/himself from the position.
Discrimination	Discrimination (disparate treatment and disparate impact) occurs when an adverse employment action is taken and is based upon a protected class. Disparate treatment occurs when an employee suffers less favorable treatment than others because of the protected class. Disparate impact occurs when an employment policy, although neutral on its face, adversely impacts persons in a protected class.
Equal Employment Opportunity	All persons regardless of age, ancestry, color, disability, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, race, religion, sex, sexual orientation, protected veteran status, or any other bases under the law shall have equal opportunity for employment.
Harassment*	(1) Unwelcome, protected class-based verbal or physical conduct that (2) is sufficiently severe, persistent or pervasive that (3) it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the university's education and employment programs and activities; and (4) is based on power differentials (quid pro quo) or the creation of a hostile environment. * This definition does not include sexual harassment. See Sexual Misconduct, Sexual Harassment, and Relationship Violence policy 1.15, for the definition of sexual harassment.
Protected Class	Protected class is defined by federal law/executive order or Ohio State policy.



Applies to: Faculty, staff, student employees, graduate associates, volunteers, and applicants

Policy Details

- I. Guiding Principles
 - A. Recruitment processes should be designed and conducted so as to result in the most diverse and qualified **applicant** pool possible.
 - B. Selection practices should emphasize hiring the best-qualified individuals.
 - C. Management practices should facilitate inclusive work environments that value and seek out human diversity and reward effective human relations skills.
 - D. University practices should emphasize prevention of discrimination and **harassment**.
 - E. Training and development opportunities should be made available to employees and should provide equal opportunities for individuals from underrepresented groups.
 - F. Promotion practices, including tenure, should be inclusive and provide equal opportunity for individuals from underrepresented groups.

PROCEDURE

Issued: 10/01/1973

Revised: 09/01/2015

- I. Making a Complaint of Discrimination/Harassment
 - A. Allegations can be made by individuals who are directly involved in, who observe, or who receive reliable information that discrimination/harassment may have occurred.
 - B. Allegations of sexual misconduct, which includes sexual harassment, are handled under Sexual Misconduct, Sexual Harassment, and Relationship Violence, Policy 1.15.
 - C. Allegations of all other forms of discrimination/harassment involving students in the nonemployment setting can be filed by contacting the Office of the Vice President for Student Life; the Student Advocacy Center; or the Multicultural Center, specifically the Bias Assessment and Response Team.
 - D. Filing a complaint with the university does not preclude the individual from filing a complaint with an external agency nor does it extend time limits with those agencies.
 - E. Individuals who wish to make a complaint of discrimination/harassment (outside of sexual harassment) should:
 1. Talk with the responsible party if desired and if comfortable doing so.
 2. Seek to resolve the situation in consultation with the supervisor and/or college/unit human resource professional if desired and if comfortable doing so.
 3. If the issue is not resolved through #1 and/or #2, contact the Office of Human Resources. Submit a completed Discrimination/Harassment Complaint form, available from the Office of Human Resources.
 4. Provide witnesses and/or documentation from individuals that have first-hand knowledge of the situation.
 5. Respect the confidentiality and reputation of all parties.
 6. Keep the investigator informed of any new concerns or actions taken against the complainant during the investigation.
- II. Confidentiality

The university recognizes the importance of confidentiality. To the extent possible, all information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except when necessary to conduct an appropriate investigation, to provide assistance and resources to complainants, to perform other appropriate university functions, or when the university is compelled to produce information in accordance with the law. When requests for confidentiality arise, they will be evaluated by the Office of Human Resources, Employee and Labor Relations or in cases of sexual misconduct, which includes sexual harassment, by the Title IX coordinator. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process.



Applies to: Faculty, staff, student employees, graduate associates, volunteers, and applicants

III. Retaliation

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. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination or harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or student status, independent of the merits of the underlying allegation. Allegations of retaliation should be directed to the Office of Human Resources, Employee and Labor Relations, or in cases of sexual misconduct, which includes sexual harassment, to the Title IX coordinator or deputy coordinator.

IV. Job Postings

- A. Required tagline for job postings and advertisements: The Ohio State University is an equal opportunity employer. All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability status, or protected veteran status.
- B. Applicants are encouraged to complete and submit the [Equal Employment Identification form](#).

Responsibilities

Position or Office	Responsibilities
Employing unit	<ol style="list-style-type: none"> 1. Ensure that a diverse pool is created for each search. 2. Ensure that management practices prevent discrimination and support Equal Employment Opportunity (EEO). 3. Provide information and resources to supervisors, managers, and employees in support of Affirmative Action, EEO, and non-discrimination. 4. Ensure that instances of discrimination are promptly referred to Human Resources Employee and Labor Relations. Once findings and actions steps are issued, ensure that they are properly implemented. 5. Display required EEO materials. 6. Consult with Human Resources Employee and Labor Relations to meet obligations under this policy. 7. Enter employee Affirmative Action employment data in the Human Resource Information System (HRIS). 8. Ensure confidentiality of individuals with HIV/AIDS infection, genetic information, or other issues governed by this policy. 9. Follow responsibilities outlined in the Investigation Guidelines.
Office of Human Resources	<ol style="list-style-type: none"> 1. Consult with and guide units, managers, and employees regarding this policy. 2. Produce and maintain the university Affirmative Action Plan. 3. Consult with units regarding the Affirmative Action planning process and their responsibilities under this policy. 4. Provide Affirmative Action, EEO, and non-discrimination information and resources. 5. Investigate complaints of discrimination/harassment. 6. Provide training regarding this policy. 7. Ensure confidentiality of individuals with HIV infection, genetic information, or other issues governed by this policy. 8. Follow responsibilities outlined in the Investigation Guidelines. 9. Evaluate requests for confidentiality.
Title IX coordinator	Evaluate requests for confidentiality related to sexual misconduct, which includes sexual harassment.
Applicant and employee	<ol style="list-style-type: none"> 1. Voluntarily complete and submit the Equal Employment Identification form if desired. 2. Talk with the party responsible for the offensive behavior if desired and if comfortable doing so. 3. Seek to resolve situations in consultation with the supervisor and/or college/unit HR professional if desired and if comfortable doing so. 4. Submit Discrimination/Harassment Complaint form to the Office of Human Resources. 5. Provide witnesses and/or documentation from individuals that have first-hand knowledge of the situation. 6. Respect the confidentiality and reputation of all parties. 7. Keep the investigator informed of any new concerns or actions taken against the complainant during the investigation. 8. Direct allegations of retaliation to OHR Employee Relations, or in cases of sexual misconduct, which includes sexual harassment, to the Title IX coordinator or deputy coordinator.



Applies to: Faculty, staff, student employees, graduate associates, volunteers, and applicants

Position or Office	Responsibilities
	9. Follow responsibilities outlined in the Investigation Guidelines.

Resources

Discrimination/Harassment Complaint form, hr.osu.edu/public/documents/forms/shdisccomplaint.pdf
 Equal Employment Identification form, hr.osu.edu/forms/emp/aaed.pdf
 Equal Employment Opportunity Commission, eeoc.gov
 Investigation Guidelines, hr.osu.edu/hrpubs/guidelinesdiscrim.pdf
 National Human Genome Research Institute, genome.gov, genome.gov/10002077
 Notice of Non-Discrimination, hr.osu.edu/policy/resources/110nondiscrimnotice.pdf
 Ohio Revised Code Section 4112 Unlawful discriminatory practices, codes.ohio.gov/orc/4112.02
 Posters, hr.osu.edu/hrpubs/index#eeolabor
 Rehabilitation Act of 1973, Sections 503 and 504, eeoc.gov/policy/rehab.html
 Sexual Misconduct, Sexual Harassment, and Relationship Violence, Policy 1.15, hr.osu.edu/public/documents/policy/policy115.pdf

Contacts

Subject	Office	Telephone	E-mail/URL
Policy	Employee and Labor Relations, Office of Human Resources	614-292-2800	ohrc@hr.osu.edu hr.osu.edu/elr
ADA and accommodations	ADA Coordinator's Office, Office of Diversity and Inclusion	614-292-6207	ada-osu@osu.edu ada.osu.edu
Title IX	Title IX Coordinator, Office of University Compliance and Integrity	614-247-5838	titleix@osu.edu titleix.osu.edu

History

Issued: 10/01/1973
 Revised: 10/01/1980
 Revised: 01/03/1985
 Revised: 10/23/2000
 Edited: 09/06/2002
 Revised: 02/02/2004
 Revised: 11/01/2009
 Revised: 02/01/2012
 Edited: 09/01/2013
 Revised: 09/01/2015



Applies to: Faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, & visitors.

Responsible Office

Office of Human Resources

POLICY

Issued: 10/01/1980
Interim Revised: 09/01/2015

Members of the university community, vendors, and visitors have the right to be free from all forms of sexual misconduct. Sexual misconduct is conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person. Sexual misconduct includes sexual harassment, sexual violence, and relationship violence. Sexual misconduct impedes 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 does not infringe upon the rights of others and maintain 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 accused 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.

Purpose of the Policy

To maintain an environment for work and study free from sexual misconduct.

Definitions

Term	Definition
Sex- and gender-based discrimination	Unfairly treating an individual or group of individuals differently than others on the basis of sex or gender. Sexual misconduct is a form of sex- and gender-based discrimination.
Sexual misconduct	Conduct of a sexual nature or conduct based on sex or gender that is nonconsensual or has the purpose or effect of threatening, intimidating, or coercing a person. Includes sexual harassment, sexual violence, and relationship violence. Sexual misconduct is a form of sex- and gender-based discrimination.
Sexual harassment	<p>In the employment context, sexual harassment is unwelcome, sex- or gender-based verbal or physical conduct that unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. It can take two forms: power differentials (<i>quid pro quo</i>) or hostile environment.</p> <p>In the education context, sexual harassment is unwelcome, sex- or gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it interferes with, denies or limits an individual's ability to participate in or benefit from the university's educational programs and activities.</p> <p>A. <i>Quid pro quo</i> sexual harassment exists when:</p> <ol style="list-style-type: none"> 1. There are unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature; and 2. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status; or 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. <p>B. <i>Hostile environment</i> in the employment context includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an</p>



Applies to: Faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, & visitors.

Term	Definition
	<p>individual's work performance or creates an intimidating, hostile or offensive work environment; hostile environment in the education context includes any situation in which there is harassing conduct that limits, 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"> 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"> a. The degree to which the conduct interfered with the complainant's educational or work performance; b. The type, frequency, and duration of the conduct; c. The identity of and relationship between the accused and the complainant(s); d. The number of individuals involved; e. The age and sex of the accused and the complainant(s); f. The location of the incident(s) and the context in which it occurred; g. The nature and severity of the conduct; h. Whether the conduct was physically threatening; i. Whether the conduct was humiliating; j. The effect of the conduct on the complainant's mental or emotional state; k. Whether the conduct arose in the context of other discriminatory conduct; l. Whether the speech or conduct deserves the protections of academic freedom or the first amendment. 2. A single or isolated incident of sexual harassment (e.g., rape) may be severe enough to create a hostile environment. <p>All such acts of sexual harassment are forms of sexual misconduct covered under this policy.</p>
Sexual violence	<p>Sexual acts perpetrated against an individual's will or when an individual is incapable of giving consent. All such acts of sexual violence are forms of sexual misconduct covered under this policy.</p>
Sexual assault	<p>Non-consensual sexual contact and non-consensual sexual intercourse. All such acts of sexual assault are forms of sexual violence, and therefore sexual misconduct, covered under this policy.</p>
Non-consensual sexual contact	<p>Any intentional sexual touching, however slight, with any body part or object, by any individual upon another individual that is without consent and/or by force or coercion.</p> <p>Sexual contact includes: intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts or object, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.</p> <p>All such acts of non-consensual sexual contact are forms of sexual assault, and therefore sexual misconduct, covered under this policy.</p>
Non-consensual sexual intercourse	<p>Any sexual penetration, however slight, with any body part or object, by any individual upon another individual that is without consent and/or by force or coercion.</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>All such acts of non-consensual sexual intercourse are forms of sexual assault, and therefore sexual misconduct, covered under this policy.</p>
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, and that behavior does not otherwise constitute one of the other sexual violence offenses. Examples of sexual exploitation include, and are not limited to:</p> <ol style="list-style-type: none"> A. Engaging in voyeurism; B. Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; C. Going beyond the boundaries of consent (such as letting others hide in a closet to watch you having consensual sex);



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Term	Definition
	<ul style="list-style-type: none"> D. Invasion of sexual privacy; E. Knowingly transmitting a sexually transmitted infection (STI) to another individual; F. Non-consensual video or audio-taping of sexual activity; G. Possession, use and/or distribution of alcohol or other drug (e.g., Rohypnol, Ketamine, GHB, Burundanga, etc.) for the purpose of engaging in or facilitating any activity prohibited under this policy. H. Prostituting another individual; <p>All such acts of sexual exploitation are forms of sexual violence, and therefore sexual misconduct, covered under this policy.</p>
Relationship violence	<p>Dating violence, domestic violence, and stalking. All such acts of relationship violence are forms of sexual misconduct covered under this policy.</p>
Domestic violence	<p>Conduct that would meet the definition of a felony or misdemeanor crime of violence committed by the complainant's current or former spouse or intimate partner, a person with whom the complainant shares a child in common, a person who is or has cohabitated with the complainant as a spouse or intimate partner, or individual similarly situated to a spouse under domestic or family violence law, or anyone else protected under the domestic or family violence law of the jurisdiction in which the offense occurred. An individual need not be charged with or convicted of a criminal offense to be found responsible for domestic violence pursuant to this policy.</p>
Dating violence	<p>Violence or threat of violence by an individual who has been in a social relationship of a romantic or intimate nature with the complainant. Whether there was such relationship will be determined based on the reporting party's statement and with consideration of the length and type of relationship, and the frequency of interaction of the persons involved in the relationship.</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 her, his, 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 perpetrator 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>
Consent	<p>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.</p> <ul style="list-style-type: none"> 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 or blackout, etc.). <ol style="list-style-type: none"> 1. Substantial impairment is a state when an individual cannot make rational, reasonable decisions because she/he lacks the capacity to give knowing consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction). 2. This policy also covers individuals whose 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. Use of alcohol or other drugs will never function as a defense for any behavior that violates this policy. E. 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.
Title IX coordinator	<p>The designated 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</p>



Applies to: Faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, & visitors.

Term	Definition
	issues.
Deputy coordinator	Individual responsible for supporting the Title IX coordinator and accessible to any community member for consultation and guidance. A deputy coordinator is housed in Offices of Human Resources, Athletics, and Student Life. Only the deputy coordinators in Offices of Human Resources and Student Life oversee investigative functions; the deputy coordinator in Athletics does not.
University community	Faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, and visitors.
Appointees	An individual deemed to have an affiliation with the university in a non-compensatory capacity as designated in the applicable Human Resources Information System.

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 (e.g., physical, verbal, visual, online/electronic/social media, etc.).
 - B. Location
 - 1. This policy applies to alleged sexual misconduct that take place on university property or at university-sponsored events, regardless of their location.
 - 2. This policy may also apply to alleged sexual misconduct that occur off-campus when the Title IX coordinator or deputy coordinator determines that the alleged off-campus conduct could reasonably create a hostile environment.
 - C. Jurisdiction
 - 1. 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. The university may take any action it deems appropriate, including informing the accused of the allegations and pursuing an investigation even in cases when the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary.
 - 2. The university’s disciplinary response may be limited if the accused is a visitor or other third-party or is not subject to the university’s jurisdiction.
 - D. **Title IX coordinator and deputy coordinator**
 - 1. Alleged sexual misconduct involving any individual covered by this policy is addressed by the Title IX coordinator or deputy coordinator.
 - 2. See responsibilities section for a complete list of responsibilities.
 - E. 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.
 - F. Policy maintenance
 - 1. This policy is coordinated through the efforts of the Title IX coordinator and deputy coordinators.
 - 2. This policy and the associated procedures will be updated, revised, and edited only by a working group comprised of the Offices of Human Resources, Legal Affairs, Student Life, and University Compliance and Integrity.
- 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.



University Policy

Applies to: Faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, & visitors.

- 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 should 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 physicians and medical 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 TAs 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 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 romantic and/or sexual relationship 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 the romantic and/or sexual relationship section of this policy 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, 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 romantic and/or sexual relationship section of this policy.



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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.

III. Employee Duty to Report

- A. 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 becomes aware of information that would lead a reasonable person to believe that sexual assault may have occurred involving anyone covered under this policy, must report such information immediately.
- B. The following members of the university community have an additional obligation to report incidents of sexual harassment as well as sexual assault **when they become aware of information that would lead a reasonable person to believe that sexual harassment may have occurred involving anyone covered under this policy.** These individuals must report the incident within five work days of becoming aware of such information:
 1. Any human resource professional (HRP);
 2. Supervisor, including faculty supervisors and volunteer supervisors;
 3. Chair/director; and
 4. Faculty member.
- C. Employees with a duty to report may make such reports in the following formats:
 1. To report **any information regarding sexual misconduct**, contact the [Title IX coordinator](#) by emailing titleix@osu.edu; or
 2. To report **allegations of employee sexual misconduct**, contact the **deputy Title IX coordinator** in the [Office of Human Resources](#) by calling 614-292-2800 (medical center employees contact 614-293-4988), filing a [Discrimination and Harassment Complaint](#) form; or emailing sexualharassment@osu.edu; or
 3. To report **allegations of student sexual misconduct**, contact the **deputy Title IX coordinator** in the [Office of Student Conduct](#) by calling 614-292-0748 or emailing studentconduct@osu.edu.



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D. The following categories of employees are exempt from the duty to report sexual assault and sexual harassment, 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. 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. An example is 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. 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.
- c. Other employees with a professional license requiring confidentiality or who are supervised by such a person, such as Student Health Services employees and medical center employees, and who are functioning within the scope of that license or certification. For example, a physician with dual appointments (clinician and professor) would be required to report instances of sexual harassment and sexual assault of which she or he becomes aware of in the scope of her or his employment as a professor, but while operating as a clinician may keep such information confidential.

E. 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. Confidentiality

- A. The university recognizes the importance of confidentiality. To the extent possible, information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except when necessary to conduct an appropriate investigation, to provide assistance and resources to complainants, to perform other appropriate university functions, or when the university is compelled to provide information under the law.
- B. When requests for confidentiality arise, they will be evaluated by the Title IX coordinator to determine whether the university can honor the request while still providing a safe and nondiscriminatory environment.
 1. When a complaint involves or impacts students, complainants will be advised that honoring a request for confidentiality may limit the university's ability to respond fully to the incident, including pursuing disciplinary action against the accused.
 2. In cases not involving or impacting students, the university may have a compelling responsibility to pursue an investigation regardless of the complainant's request for confidentiality.
- C. All individuals involved in the process should observe the same standard of discretion and respect for everyone involved in the process.

V. Retaliation

- A. 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. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination or harassment, or for participating in an investigation.
- B. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or student status, independent of the merits of the underlying allegation.

VI. Investigation and Resolution Options

A. Early resolution

1. Early resolution may be appropriate in some circumstances if all parties agree; the university approves; and only with the assistance of a university official such as a counselor, trained mediator, or designated



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administrator. Early resolution is encouraged when the parties desire to resolve the situation cooperatively and/or when a formal resolution is not likely to yield a satisfactory outcome. Participation in early resolution is voluntary. Early resolution may include an inquiry into the facts, informal discussion with the parties, mediation, referral to counseling, conducting targeted preventative educational and training programs, and/or providing remedies for the individual harmed by the offense. Early resolution may be appropriate for responding to anonymous reports and/or third-party reports. Steps taken in early resolution must be documented.

2. In cases of alleged **sexual violence**, mediation is never an appropriate option for resolution, even on a voluntary basis.
3. Complainants are never required by the university to discuss issues directly with the accused.
4. In all cases, the university will inform the complainant of her or his right to end the informal process at any time and either choose to begin the formal stage of the report process or choose not to further pursue the matter.

B. Formal investigation and resolution

1. In instances when early resolution is inappropriate or unsuccessful, when any party requests, or when the university requires formal investigation of alleged sexual misconduct, the university will consider the concerns and rights of all parties and provide an equitable process.
2. In cases when the complainant states she or he does not want to pursue a formal investigation, the complainant will be informed that the ability to investigate may be limited. When determining whether to move forward with a formal investigation, the Title IX coordinator or deputy coordinator may consider:
 - a. The seriousness of the allegation;
 - b. In the case of a student complainant, the age of the student;
 - c. Whether there have been other complaints or reports against the accused; and
 - d. Privacy concerns of the complainant.
 - e. Under some circumstances, the Title IX coordinator or deputy coordinator may have an obligation to formally investigate a complaint, such as when there is a risk to the campus community, and the complainant will be informed as such.

C. Investigators will be trained to resolve cases of alleged sexual misconduct and will be familiar with applicable policies and procedures.

VII. Remedies

A. When the university makes a finding of a policy violation it will take steps, whether individual or systemic, to stop the alleged sexual misconduct, prevent its recurrence, eliminate any hostile environment, and remedy the discriminatory effects on the complainant and others, as appropriate.

B. Corrective action/sanctions

1. When the accused is a student, sanctions may be taken pursuant to the [Code of Student Conduct](#). Potential sanctions under the Code of Student Conduct include formal reprimand, disciplinary probation, suspension, dismissal, and other appropriate educational sanctions.
2. In the event that a record of such sanction will become a part of the accused's educational records, prior notice will be given.
3. When the accused is an employee, corrective actions may be taken pursuant to the [Corrective Action and Involuntary Termination](#) policy, [Student Employment](#) policy, and/or the [Rules of the University Faculty 3335-5-04](#). Potential corrective actions include coaching, development plans, reduction in supervisory duties and leadership responsibilities, changes in salary, termination, and other appropriate corrective actions.
 - a. In the event that a record of such corrective action will become a part of the accused's personnel records, prior notice will be given.
 - b. Corrective action may also be taken against any individual with a duty to report under this policy who fails to report alleged sexual misconduct in a manner consistent with the provisions of this policy.



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4. Student employees may be subject to corrective action and sanctions under both sections 1 and 2 above. For instance, a student employee who is dismissed from the university under section 1 may also be subject to termination or other corrective action under section 2.

C. Interim measures

1. Interim measures may be available before the final outcome of an investigation to ensure equal access to the university's education and employment programs and activities, and to protect the complainant when necessary. Interim measures may be available to the complainant whether or not formal investigation is used. Interim measures may continue past the duration of the investigation as deemed appropriate by the university. Interim measures may include and are not limited to:
 - a. No contact order,
 - b. Victim advocacy,
 - c. Housing assistance/relocation,
 - d. Counseling,
 - e. Health services,
 - f. Safety resources,
 - g. Academic support,
 - h. Change in work schedule/location, and
 - i. Consideration of leave requests.
2. The Title IX coordinator, deputy coordinator, and other specifically designated university employees will coordinate the provision of interim measures. Complainants will not be required to arrange such measures by themselves. When providing interim measures, the university will minimize the burden on the complainant.

D. Other remedial measures

1. When the university is unable to conduct a full investigation into a particular incident due to a lack of specificity in the report or request for confidentiality, 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, and that the behavior did not rise to the level of a policy violation. 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.

VIII. False Allegations

- A. The absence of a finding of a policy violation is not equivalent to a false allegation.
- B. 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.

IX. Use of Sexual Misconduct Allegations in Employment or Academic Actions

- A. When making decisions affecting an individual's employment or academic status, allegations of sexual misconduct may be considered only if they have been addressed through this policy or procedure, a court of law, or other administrative proceeding.



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PROCEDURE

Issued: 10/01/1980

Interim Revised: 09/01/2015

I. Reporting Allegations of Sexual Misconduct

- A. A report can be made by any individual who is directly involved in, who observes, or who reasonably believes that sexual misconduct may have occurred. This includes allegations by third parties against any individual covered by this policy. Members of the university community have a duty to report such information; see Employee Duty to Report section above.
- B. Reports can be made by contacting the [Title IX coordinator](#) or by using the following resources:
 1. To report [allegations of employee sexual misconduct](#), contact the [deputy Title IX coordinator](#) in the [Office of Human Resources](#) by calling 614-292-2800 (medical center employees contact 614-293-4988), filing a [Discrimination and Harassment Complaint](#) form; or emailing sexualharassment@osu.edu; or
 2. To report [allegations of student sexual misconduct](#), contact the [deputy Title IX coordinator](#) in the [Office of Student Conduct](#) by calling 614-292-0748 or emailing studentconduct@osu.edu.
 3. [University Anonymous Reporting Line](#); and/or
 4. [University Police](#) (to report criminal activity only).
- C. Filing a report with the university does not preclude the individual from filing a report with an external law enforcement or other agency nor does it extend time limits with those agencies. Individuals may request assistance from the Title IX coordinator or deputy coordinator to notify such authorities.

II. Reporting Retaliation

- A. Allegations of retaliation should be directed to the [Title IX coordinator or deputy coordinator](#).

III. Conducting Investigations

- A. All parties will be informed of the procedures of the investigation and all allegations being investigated.
- B. Parties may have a support person of their choice present during any applicable investigation meeting, student hearing, or other disciplinary proceeding related to the investigation. The role of the support person is only to be present; they will not be provided documentation or allowed to interject during the meeting. If a support person is determined to be unreasonably interfering with the meeting or proceeding, she or he may be asked to leave.
- C. Irrelevant prior sexual history of either party will not be allowed as evidence in any proceeding.
- D. The investigator will apply a preponderance of the evidence standard to determine whether a violation of this policy has occurred.
- E. A typical investigation will take approximately 60 calendar days following receipt of the complaint. This will vary depending on the complexity of the investigation and the severity and extent of the alleged sexual misconduct. When in an individual case the following timeframes cannot be met for legitimate reasons, the parties will be informed when and why they will not be met.
 1. The 60 calendar day timeframe refers to the entire investigation process, which includes and is not limited to:
 - a. Initiating the investigation including contacting the complainant for an intake interview (7 days);
 - b. Conducting the fact-finding investigation (33 days);
 - c. Holding a hearing or engaging in another decision-making process to determine whether a policy violation has occurred (10 days); and
 - d. Determining what actions the university will take to eliminate the hostile environment, prevent its recurrence, and remedy its discriminatory effects, including imposing sanctions against the accused and providing remedies for the complainant and university community, as appropriate, and issuing written notice of the finding of the investigation (10 days).
 2. Other factors may affect one or more parts of the timeframe, including and not limited to, the complexity, severity, and extent of the alleged sexual misconduct. The process may be extended if necessary due to illness, holidays, unavailability of parties or witnesses, complexity of the case, or competing demands on investigators or decision makers.



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- F. The investigation generally will include interviews with the parties if available, interviews with other witnesses as determined by the investigator, and a review of relevant documents as appropriate. In cases of alleged sexual assault or **relationship violence**, parties will be given timely and equal access to information that will be used during disciplinary meetings and hearings.
 - 1. In cases of alleged sexual misconduct by an employee, investigated by the Office of Human Resources and/or the Office of University Compliance and Integrity, the investigator will prepare a written case report that typically provides a summary of facts, analysis, findings, and recommended corrective actions. This report is shared with the complainant and accused at the conclusion of the investigation.
 - 2. In cases of alleged sexual misconduct by a student, investigated by the Office of Student Conduct, a student charged with one or more violations of [Code of Student Conduct](#) has the right to a hearing. In a case when a charged student admits to such violation(s) in writing, the student may request in writing to have a decision as to appropriate action made administratively by a hearing officer rather than have the charges referred to a hearing officer or board for a hearing. In such situations, the student waives the right to a hearing and the related procedural guarantees provided by a hearing officer or board hearing. In cases of sexual misconduct, the university conduct board consists only of faculty and staff representatives.
- G. Notification of Findings
 - 1. In all cases of alleged sexual misconduct, the accused will be informed in writing of the finding and any recommendation for sanctions or corrective action. The complainant will be informed in writing of the finding, any actions taken to resolve the complaint that are directly related to the complainant, and any disciplinary action or sanction imposed when the complainant needs to be aware of the sanction for it to be fully effective (e.g., restrictions on communication or contact with the complainant).
 - 2. In cases of sexual assault and relationship violence, parties will receive notice of findings simultaneously, in writing, including notice of all sanctions or corrective actions imposed.
 - 3. In cases adjudicated by the Office of Student Conduct, the parties will be notified of the institution’s procedures for appeal, the results of any appeal, any change to the result, and when such results become final.
- H. In cases involving employees subject to collective bargaining agreements or university rules, parties will retain all rights afforded under applicable federal, state, or local laws.

Responsibilities

Position or Office	Responsibilities
Title IX coordinator	<ol style="list-style-type: none"> 1. Oversee all Title IX reports and investigations. 2. Oversee the maintenance of comprehensive documentation of the receipt of a report, investigation, and resolution. 3. Oversee the communication of investigation findings to the complainant and accused. 4. Ensure appropriate action steps, corrective action, and/or sanctions are issued. 5. Monitor action steps, corrective action, and/or sanctions to ensure behavioral change and compliance. 6. Address all concerns promptly and thoroughly. 7. Respect the confidentiality and reputation of all parties. 8. Refer individuals to available university and/or community resources if counseling assistance is needed. 9. Ensure that individuals delegated the responsibility for receiving and/or investigating reports receive ongoing training on the substantive requirements of Title IX. 10. Coordinate investigations with University Police as necessary. 11. Ensure that the Title IX coordinator’s other job responsibilities do not create a conflict of interest in regard to their Title IX responsibilities. 12. Periodically review reports to identify any patterns of sex- or gender-based discrimination. 13. Develop and implement regular university-wide events to raise awareness about all forms of sex- and gender-based discrimination. 14. Retain ultimate oversight responsibility for any responsibilities designated to Title IX deputy coordinators. 15. Develop and implement periodic Title IX training for the university community. 16. Periodically review Title IX related policies and procedures to ensure that they are an efficient resource for the university.



Applies to: Faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, & visitors.

Position or Office	Responsibilities
Deputy coordinators	<ol style="list-style-type: none"> 1. Oversee all Title IX reports and investigations. 2. Oversee the maintenance of comprehensive documentation of the receipt of a report, investigation, and resolution and provide to the Title IX coordinator. 3. Oversee the communication of investigation findings to the complainant and accused. 4. Ensure appropriate action steps, corrective action, and/or sanctions are issued. 5. Monitor action steps, corrective action, and/or sanctions to ensure behavioral change and compliance. 6. Address all concerns promptly and thoroughly. 7. Respect the confidentiality and reputation of all parties. 8. Refer individuals to available university and/or community resources if counseling assistance is needed. 9. Ensure that individuals delegated the responsibility for receiving and/or investigating reports receive ongoing training on the substantive requirements of Title IX. 10. Coordinate investigations with University Police as necessary. 11. Ensure that the deputy's other job responsibilities do not create a conflict of interest in regard to their Title IX responsibilities.
Office of Human Resources (OHR)	<ol style="list-style-type: none"> 1. Conduct all investigations when the accused is an employee, including student employees. In cases when the accused is a student employee, collaborate with the Office of Student Conduct. 2. Maintain comprehensive documentation of the receipt of a report, investigation, and resolution and provide to the Title IX coordinator. 3. Communicate investigation findings to the complainant and accused. 4. Issue appropriate action steps and/or corrective actions. 5. Monitor action steps and/or corrective action to ensure behavioral change and compliance. 6. Address all concerns promptly and thoroughly. 7. Respect the confidentiality and reputation of all parties. 8. Refer individuals to available university and/or community resources if counseling assistance is needed.
Office of Student Conduct	<ol style="list-style-type: none"> 1. Conduct all investigations when the accused is a student in the non-employment context. In cases when the student is also a student employee, collaborate with the Office of Human Resources. 2. Maintain comprehensive documentation of the receipt of a report, investigation, and resolution and provide to the Title IX coordinator. 3. Communicate investigation findings to the complainant and accused. 4. Issue appropriate action steps and/or sanctions. 5. Monitor action steps and/or sanctions to ensure behavioral change and compliance. 6. Address all concerns promptly and thoroughly. 7. Respect the confidentiality and reputation of all parties. 8. Refer individuals to available university and/or community resources if counseling assistance is needed.
Human resource professional (HRP)	<ol style="list-style-type: none"> 1. Report sexual harassment within five work days when you become aware of information that would lead a reasonable person to believe that sexual harassment may have occurred. 2. Report sexual assault immediately when you become aware of information that would lead a reasonable person to believe that sexual assault may have occurred. 3. Address all concerns promptly and thoroughly. 4. Respect the confidentiality and reputation of all parties. 5. Refer individuals to available university and/or community resources if counseling assistance is needed.
Supervisor (including faculty supervisor and volunteer supervisor), chair/director, and faculty member	<ol style="list-style-type: none"> 1. Report sexual harassment within five work days when you become aware of information that would lead a reasonable person to believe that sexual harassment may have occurred. 2. Report sexual assault immediately when you become aware of information that would lead a reasonable person to believe that sexual assault may have occurred. 3. Address all concerns promptly and thoroughly. 4. Respect the confidentiality and reputation of all parties. 5. Refer individuals to available university and/or community resources if counseling assistance is needed.
All employees	<p>Report sexual assault immediately when you become aware of information that would lead a reasonable person to believe that sexual assault may have occurred.</p>



Applies to: Faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, & visitors.

Resources

For more information:

- Affirmative Action, Equal Employment Opportunity and Non-Discrimination/Harassment, Policy 1.10, hr.osu.edu/public/documents/policy/policy110.pdf
- Code of Student Conduct, studentaffairs.osu.edu/csc/
- Corrective Action and Involuntary Termination, Policy 8.15, hr.osu.edu/policy/policy815.pdf
- Discrimination and Harassment Complaint form, hr.osu.edu/public/documents/forms/shdisccomplaint.pdf
- Frequently Asked Questions, hr.osu.edu/public/documents/policy/resources/115faq-general.pdf
- Frequently Asked Questions: Romantic and/or Sexual Relations, hr.osu.edu/public/documents/policy/resources/115faq-relations.pdf
- General Records Retention Schedule, library.osu.edu/documents/records-management/general-schedule.pdf
- Nondiscrimination Notice, hr.osu.edu/public/documents/policy/resources/110nondiscrimnotice.pdf
- Rules for Classified Civil Service, hr.osu.edu/policy/ccs/
- Rules of the University Faculty, 3335-5-04, trustees.osu.edu/university/facultyrules
- Student Employment, Policy 10.10, hr.osu.edu/policy/policy1010.pdf
- Task Force Examining the Policy on Consensual Relationships Report and Recommendations, hr.osu.edu/policy/resources/115report.pdf
- Workplace Violence, Policy 7.05, hr.osu.edu/public/documents/policy/policy705.pdf

For support and counseling:

- Counseling and Consultation Service, 614-292-5766, ccs.ohio-state.edu
- Office of Student Life, 614-292-9334, studentlife.osu.edu
- Student Advocacy Center, Sexual Civility & Empowerment, 614-292-1111, advocacy.osu.edu/sexual-violence/
- The Ohio State Employee Assistance Program, 614-292-4472, osuhealthplan.com/members/ohio-state-employee-assistance-program-eap

For issues of academic freedom:

- Council on Academic Freedom and Responsibility (CAFR), senate.osu.edu/committees/CAFR/CAFR.html

Contacts

Subject	Office	Telephone	E-mail/URL
Policy consultation	Employee Relations, Office of Human Resources	614-292-2800	ohrc@hr.osu.edu hr.osu.edu/elr
To make a report	Title IX coordinator or deputy coordinator	See Title IX coordinators list at titleix.osu.edu/	titleix@osu.edu titleix.osu.edu
Anonymous report	Anonymous Reporting Line (does not satisfy employee duty to report)	866-294-9350	secure.ethicspoint.com
Criminal report	University Police (to report criminal activity only; does not satisfy employee duty to report)	911 (emergency) 614-292-2121(non-emergency)	ps.ohio-state.edu
Faculty issues	Office of Academic Affairs	614-292-5881	oaa.osu.edu/
Title IX	Title IX coordinator, Office of University Compliance and Integrity	614-247-5838	titleix@osu.edu titleix.osu.edu

History

Issued:	10/01/1980	Issued as Sexual Harassment
Revised:	01/06/1983	
Revised:	11/05/1993	
Edited:	01/15/1997	



Sexual Misconduct, Sexual Harassment, and Relationship Violence, 1.15

University Policy

Applies to: Faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, & visitors.

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



Investigation Guidelines

Used in conjunction with Policies 1.10, 1.40, 1.50, 4.15, 4.17, 4.45, 6.05, 7.05

- Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10
- Background Check, Policy 4.15
- Equal Employment for Individuals with Disabilities, Policy 4.45
- Family and Medical Leave, Policy 6.05
- Activities and Programs with Minor Participants, Policy 1.50
- Self-Disclosure of Criminal Convictions, Policy 4.17
- Whistleblower, Policy 1.40
- Workplace Violence, Policy 7.05

And other policies as applicable

Sexual misconduct, which includes sexual harassment and relationship violence, is reported, investigated, and resolved following the procedures located in Sexual Misconduct, Sexual Harassment and Relationship Violence, Policy 1.15. These guidelines are not applicable to that policy.

The university has a compelling obligation to address allegations and suspected instances of discrimination/harassment when it obtains information that would lead a reasonable person to believe that a policy has been violated or that the university should know about. The Office of Human Resources Employee and Labor Relations and/or Wexner Medical Center Employee Relations (“OHR/WMC”) is ultimately responsible for investigating all complaints of discrimination/harassment, except when the accused is a student and not a student employee. Complainants involving students who are not employees are investigated by the Office of Student Conduct. The university may take appropriate action, including informing the accused of the allegations and pursuing an investigation even in cases when the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary.

I. Reporting Discrimination or Harassment

- A. Reports can be made by individuals who are directly involved in, who observe, or who reasonably believe that discrimination/harassment may have occurred. This includes allegations by third parties against members of the “university community,” which includes, but is not limited to, faculty, staff, student employees, volunteers, vendors, and any individual deemed to have an affiliation with the university in a non-compensatory capacity as designated in the applicable Human Resources Information System. Some members of the university community have a duty to report such information; see Employee Duty to Report section below.
- B. Reports can be made by:
 1. Submitting a completed [Discrimination/Harassment Complaint Form](#) to the Office of Human Resources.
 2. Contacting the [Office of Human Resources](#) (OHR) by calling 292-2800, Wexner Medical Center Employee Relations (WMC) by calling 293-4988.
 3. Filing an anonymous report via telephone at 866-294-9350 or [online](#).
 4. Contacting the Title IX coordinator or deputy coordinator in cases of sex- and gender-based discrimination or harassment.
- C. Reports of discrimination/harassment should be filed within 180 calendar days of notice of the event(s) that gave rise to the complaint.
- D. Filing a complaint with the university does not preclude the individual from filing a complaint with external law enforcement or other agency *nor does it extend time limits with those agencies*.

II. Employee Duty to Report

- A. Any Human Resource Professional (HRP); supervisor, including faculty supervisors and volunteer supervisors; chair/director; or faculty member who becomes aware of information that would lead a reasonable person to believe that discrimination/harassment has occurred must notify the OHR/WMC within five work days of becoming aware of the information.
- B. 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 the applicable laws, regulations, policies, procedures, and these guidelines.



Investigation Guidelines

Used in conjunction with Policies 1.10, 1.40, 1.50, 4.15, 4.17, 4.45, 6.05, 7.05

Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10

Background Check, Policy 4.15

Equal Employment for Individuals with Disabilities, Policy 4.45

Family and Medical Leave, Policy 6.05

Activities and Programs with Minor Participants, Policy 1.50

Self-Disclosure of Criminal Convictions, Policy 4.17

Whistleblower, Policy 1.40

Workplace Violence, Policy 7.05

And other policies as applicable

Sexual misconduct, which includes sexual harassment and relationship violence, is reported, investigated, and resolved following the procedures located in Sexual Misconduct, Sexual Harassment and Relationship Violence, Policy 1.15. These guidelines are not applicable to that policy.

III. Responsibilities for Resolving Complaints

A. OHR/WMC responsibilities:

1. Conduct all investigations when the accused is an employee, including student employees. In cases when the accused is also student employee, collaborate with the Office of Student Conduct.
2. Maintain comprehensive documentation of the receipt of a report/allegation of discrimination/harassment, its investigation, and its resolution.
3. Provide the documentation to the Title IX coordinator or deputy coordinator in cases of sex and gender-based discrimination or harassment.
4. Provide investigation findings to the complainant and accused.
5. Issue appropriate action steps and/or corrective actions.
6. Monitor action steps and/or corrective action to ensure behavioral change and compliance.
7. Address all concerns promptly and thoroughly.
8. Respect the confidentiality and reputation of all parties.
9. Refer individuals to available university and/or community resources if counseling assistance is needed.

B. College/Unit Human Resource Professional (HRP) Responsibilities:

1. Refer all reports or allegations of discrimination/harassment to OHR/WMC or Title IX coordinator or deputy coordinator in cases of sex and gender discrimination or harassment, within five work days.
2. Assist supervisors, chairs/directors, and faculty members when an allegation of discrimination or harassment has been disclosed, and if so, refer it to OHR/WMC or Title IX coordinator or deputy coordinator in cases of sex or gender-based discrimination or harassment.
3. Address all concerns promptly and thoroughly.
4. Respect the confidentiality and reputation of all parties.
5. Refer individuals to available university and/or community resources if counseling assistance is needed.

C. Supervisor (including faculty supervisors and volunteer supervisors), Chair/Director, and Faculty Member Responsibilities:

1. Refer all reports of discrimination/harassment to OHR/WMC or Title IX coordinator or deputy coordinator, in cases of sex or gender-based discrimination or harassment, within five work days.
2. Contact the college/unit HRP to collaborate when an allegation of discrimination or harassment is disclosed and if so, refer it to OHR/WMC or Title IX coordinator or deputy coordinator in cases of sex or gender-based discrimination or harassment within five work days.
3. Address all concerns promptly and thoroughly.
4. Respect the confidentiality and reputation of all parties.
5. Advise individuals of available university and/or community resources for counseling or other assistance.

IV. Investigator Duties

- A. Investigations will be a collaborative effort between the unit and OHR/WMC whenever possible. Individuals will be informed of the investigation and its progress on a timely basis.
- B. The investigator will discuss the following with the complainant:

Investigation Guidelines

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Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10

Background Check, Policy 4.15

Equal Employment for Individuals with Disabilities, Policy 4.45

Family and Medical Leave, Policy 6.05

Activities and Programs with Minor Participants, Policy 1.50

Self-Disclosure of Criminal Convictions, Policy 4.17

Whistleblower, Policy 1.40

Workplace Violence, Policy 7.05

And other policies as applicable

Sexual misconduct, which includes sexual harassment and relationship violence, is reported, investigated, and resolved following the procedures located in Sexual Misconduct, Sexual Harassment and Relationship Violence, Policy 1.15. These guidelines are not applicable to that policy.

1. The complainant may:
 - a. File a complaint with OHR/WMC
 - b. File a complaint with the Title IX coordinator or deputy coordinator in cases of sex or gender-based discrimination or harassment.
 - c. File a grievance under the nondiscrimination clause of the appropriate collective bargaining agreement.
- C. The investigator will discuss the following with the complainant and accused:
 1. The behaviors and any related issues that gave rise to the complaint.
 2. The policy under which the complaint is brought and these investigation guidelines. Copies of both will be provided.
 3. The university has a compelling obligation to address allegations and suspected instances of discrimination/harassment when it obtains information that would lead a reasonable person to believe that a policy has been violated or that the university should know about. The university may take any action it deems appropriate, including informing the accused of the allegations and pursuing an investigation even in cases when the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary.
 4. The manner and frequency with which they will be updated about the status of the investigation.
 5. The importance of confidentiality during the investigation. See Confidentiality section below.
 6. Ohio Public Records Law. Upon conclusion of the investigation, records may be made available to the extent mandated by law.
 7. The university will not tolerate retaliation in any form. See Retaliation section below.
- D. The investigator will ensure that a written complaint or [Discrimination/Harassment Complaint Form](#) is completed if necessary. A written complaint form is not necessary if sufficient information has been provided to the investigator to allow an investigation to proceed.
- E. The investigator, in collaboration with the unit representative/HRP and the complainant, will determine if interim measures are necessary to prevent discrimination/harassment from occurring against the complainant while the investigation is pending.

V. Investigation Process

- A. Purpose of the investigation. The purpose of the investigation is to evaluate the allegations of discrimination/harassment, formulate a response that addresses the facts as they are determined, and follow up to ensure that the necessary action steps are completed.
- B. Method of investigation. Depending on the facts of the case, an investigation may range along a continuum from a one-on-one conversation with the accused with an agreement as to further interactions to an inquiry with several witness interviews. During the investigation, the OHR/WMC consultant may interview the parties, witnesses who have first-hand knowledge of the events, and gather relevant documents. After analyzing all the information, the OHR/WMC consultant will prepare a case report with findings and detailed action steps to be implemented by the unit and the parties. Prior to the release of the case report, the employee relations director or designee will review the report and discuss with the investigator any procedural issues, the specific findings, and necessary actions steps. In instances of sex- or gender-based discrimination, the Title IX coordinator or deputy coordinator will be



Investigation Guidelines

Used in conjunction with Policies 1.10, 1.40, 1.50, 4.15, 4.17, 4.45, 6.05, 7.05

Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10

Background Check, Policy 4.15

Equal Employment for Individuals with Disabilities, Policy 4.45

Family and Medical Leave, Policy 6.05

Activities and Programs with Minor Participants, Policy 1.50

Self-Disclosure of Criminal Convictions, Policy 4.17

Whistleblower, Policy 1.40

Workplace Violence, Policy 7.05

And other policies as applicable

Sexual misconduct, which includes sexual harassment and relationship violence, is reported, investigated, and resolved following the procedures located in Sexual Misconduct, Sexual Harassment and Relationship Violence, Policy 1.15. These guidelines are not applicable to that policy.

consulted. After this review, the case report will be delivered to the parties. The decision issued by OHR/WMC is final. In every case, a record must be made of the allegations, investigation, and action taken.

- C. Presence of support persons. The complainant and the accused may each have a support person present during any applicable investigation meeting or disciplinary proceeding as an outcome of the investigation. Although the support person may be present, they may not interject during the meeting, nor will they be provided with documentation during the meeting.
- D. Time period for resolution of an allegation. Investigations should be concluded within a reasonable timeframe from the date a report is made.
- E. Preponderance of the evidence (i.e., more likely than not) is the standard used when investigating and resolving any sex or gender- based reports/allegations of discrimination or harassment.
- F. Possible outcomes.
 - 1. An investigation may result in one of the following findings:
 - a. A determination that there is sufficient evidence to indicate a violation of university policy.
 - b. A determination that there is insufficient evidence to indicate a violation of university policy.
 - c. A determination that there is no evidence to indicate a violation of university policy.
 - d. A determination that inappropriate behavior has occurred.
 - e. A determination that there is sufficient evidence to indicate that an allegation is false.
 - 2. When the outcome is a finding of sufficient evidence, a finding that the allegations were false, a finding of inappropriate behavior, or a finding that another policy violation has occurred, the university will take necessary action steps to correct the behavior. A false allegation finding will be made when an individual has intentionally reported information or incidents that they knew, when they made the allegation, were untrue.
 - 3. The department must take prompt remedial action consistent with the severity of the offense, if any, and all applicable university rules and regulations. The necessary action steps for the department to take will be provided by the OHR/WMC to the appropriate administrator who is responsible for implementation.
- G. Concluding the investigation. At the conclusion of the investigation, the investigator will inform the appropriate unit or higher-level administrator, complainant, and accused of the outcome.
- H. Written report of findings. The investigator will prepare a written summary of the findings of the investigation.

VI. Corrective Action Implementation

- A. When discrimination/harassment is found, steps will be taken to ensure that the behavior is stopped promptly. Appropriate corrective action may range from the charged party: being referred to counseling, receiving a written reprimand, receiving a suspension, or receiving other action up to and including dismissal, in accordance with established university rules, policies, and procedures. OHR/WMC will monitor corrective action to ensure compliance.
 - 1. In cases involving faculty members, corrective measures may be imposed in accordance with [Rules of the University Faculty 3335-5-04](#).
 - 2. For unclassified and classified civil service employees, refer to [Corrective Action and Involuntary Termination](#), Policy 8.15.
 - 3. For bargaining unit employees, refer to the appropriate collective bargaining agreement.

Investigation Guidelines

Used in conjunction with Policies 1.10, 1.40, 1.50, 4.15, 4.17, 4.45, 6.05, 7.05

Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10

Background Check, Policy 4.15

Equal Employment for Individuals with Disabilities, Policy 4.45

Family and Medical Leave, Policy 6.05

Activities and Programs with Minor Participants, Policy 1.50

Self-Disclosure of Criminal Convictions, Policy 4.17

Whistleblower, Policy 1.40

Workplace Violence, Policy 7.05

And other policies as applicable

Sexual misconduct, which includes sexual harassment and relationship violence, is reported, investigated, and resolved following the procedures located in Sexual Misconduct, Sexual Harassment and Relationship Violence, Policy 1.15. These guidelines are not applicable to that policy.

4. In cases involving students acting in their employment capacity, measures may be imposed in accordance with [Student Employment](#), Policy 10.10. Measures may also be imposed in accordance with the [Code of Student Conduct](#) and other university policies.

VII. Confidentiality

- A. The university recognizes the importance of confidentiality. To the extent possible, information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except when necessary to conduct an appropriate investigation, to provide assistance and resources to complainants, to perform other appropriate university functions, or when compelled to do so by law. When requests for confidentiality arise, they will be evaluated by OHR/WMC the Title IX coordinator or deputy coordinator will be consulted in cases of sex or gender-based discrimination or harassment. All individuals involved in the process should observe the same standard of discretion and respect for everyone involved in the process.

VIII. Retaliation

- A. 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/harassment. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination/harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or student status, independent of the merits of the underlying allegation. Allegations of retaliation should be directed to OHR/WMC, or in cases of sex or gender discrimination, to the Title IX coordinator or deputy coordinator.

IX. Academic Freedom

- A. When the alleged discrimination/harassment takes place in an instructional setting and the accused believes the allegation of discrimination/harassment infringes upon academic freedom, the individual may raise those concerns with the [Council on Academic Freedom and Responsibility](#) (CAFR).

X. Record Keeping

- A. The OHR/WMC will maintain a written record of all witness interviews, evidence gathered, the outcome of the investigation, and any other appropriate documents. Investigation records will not be maintained in personnel files or student files unless they are part of a formal corrective action or sanction. Investigation records will be maintained in accordance with the [Records Retention Schedule](#). When a complaint is filed outside the university, information gathered in the course of the internal investigation may be disclosed to the investigating agency.
- B. A full set of investigation paperwork will be housed at the OHR/WMC including complaint form and/or notes, investigation notes, any relevant documentation or evidence, case report if appropriate, and letters of notification of findings and necessary action steps. If corrective action is issued, a letter documenting the action should be included in the discrimination/harassment investigation file. When corrective action is taken, the employing unit will house a file including the case report, letters of findings, and corrective action documents.
- C. In instances of sex- and gender-based discrimination, the Title IX coordinator will be provided written notice of

Investigation Guidelines

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Whistleblower, Policy 1.40
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And other policies as applicable

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the complaint, report, investigation, and resolution.

XI. Maintaining these Guidelines

- A. Sections of these guidelines that duplicate any policy to which they apply can only be updated consistent with the respective policy.

RESOURCES

Consultation:

Office of Human Resources, Employee and Labor Relations 614-292-2800
Wexner Medical Center Employee Relations, 614-293-4988
Office of Academic Affairs, 614-292-5881
Title IX Coordinator and Deputy Coordinators, titleix.osu.edu

Counseling:

Counseling and Consultation Service, Office of Student Life, 614-292-5766, ccs.ohio-state.edu
Ohio State Employee Assistance Program, The OSU Health Plan, 614-292-4472, osuhealthplan.com/OhioStateEAP

More information:

Activities and Programs with Minor Participants, Policy 1.50, hr.osu.edu/policy/policy150.pdf
Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10, hr.osu.edu/policy/policy110.pdf
Background Check, Policy 4.15, hr.osu.edu/policy/policy415.pdf
Code of Student Conduct, studentaffairs.osu.edu/csc/
Corrective Action and Involuntary Termination, Policy 8.15, hr.osu.edu/policy/policy815.pdf
Discrimination/Harassment Complaint Form hr.osu.edu/forms/shdisccomplaint.pdf
Employment Disputes, Policy 8.20, hr.osu.edu/policy/policy820.pdf
Equal Employment for Individuals with Disabilities, Policy 4.45, hr.osu.edu/policy/policy445.pdf
Family and Medical Leave, Policy 6.05, hr.osu.edu/policy/policy605.pdf
Records Retention Schedule, library.osu.edu/documents/records-management/general-schedule.pdf
Rules for Classified Civil Service hr.osu.edu/policy/ccs
Rules of the University Faculty, trustees.osu.edu/university/facultyrules
Self-Disclosure of Criminal Convictions, Policy 4.17, hr.osu.edu/public/documents/policy/policy417.pdf
Sexual Misconduct, Sexual Harassment and Relationship Violence, Policy 1.15, hr.osu.edu/policy/policy115.pdf
Student Employment, Policy 10.10, hr.osu.edu/policy/policy1010.pdf
Whistleblower, Policy 1.40, hr.osu.edu/policy/policy140.pdf
Workplace Violence, Policy 7.05, hr.osu.edu/policy/policy705.pdf



Investigation Guidelines

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Affirmative Action, Equal Employment Opportunity, and Non-Discrimination/Harassment, Policy 1.10

Background Check, Policy 4.15

Equal Employment for Individuals with Disabilities, Policy 4.45

Family and Medical Leave, Policy 6.05

Activities and Programs with Minor Participants, Policy 1.50

Self-Disclosure of Criminal Convictions, Policy 4.17

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Workplace Violence, Policy 7.05

And other policies as applicable

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Academic freedom:

Council on Academic Freedom and Responsibility (CAFR), senate.osu.edu/?s=CAFR

HISTORY

Issued: 02/02/2004

Revised: 01/15/2008

Revised: 03/01/2011

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