

This Title IX Grievance Procedure is not transferable to any other policy of the University for any violation of any code of conduct, employment policies, the *Policy Against Discrimination, Harassment, Sexual Violence and Retaliation*, or any civil rights violation. The application of this Title IX Grievance Procedure does not set precedent for other policies or processes in the University.

II. THE TITLE IX GRIVANCE PROCEDURE FOR ADDRESSING FORMAL COMPLAINTS OF SEXUAL HARASSMENT

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3. Education Program or Activity

T means:

- a. Any on-campus premises;
- b. Any off-campus premises over which the University has substantial control. This includes buildings or property owned or controlled by a recognized student organization; or
- c. Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University over which the University has substantial control.

4. Formal Complaint

Formal C means a document including an electronic submission - filed by a Complainant with a signature or other indication that the Complainant is the person filing the Formal Complaint, or signed by the Title IX Coordinator, alleging Covered Sexual Harassment against a Respondent which occurred or is occurring within education program or activity and requesting initiation of procedures consistent with this Title IX Grievance Procedure.

5. Complainant

Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute Covered Sexual Harassment. A Complainant may also be referred to as a Party.

6. Relevant Evidence and Relevant Questions

- a. Relevant evidence and relevant questions refer to evidence and questions that tends to make an allegation of Covered Sexual Harassment more or less likely to be true.
- b. Relevant evidence and relevant questions do not include the following types of evidence and questions, which are deemed irrelevant at all stages of the Title IX Grievance Procedure:
 - i. sexual behavior unless: the questions are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or the questions concern specific incidents of the C behavior with respect to the Respondent and are offered to prove consent.

- i. Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- ii. Any P Party has
given voluntary, written consent.

7. Respondent

Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute Covered Sexual Harassment. A Respondent may also be referred to as a Party.

8. Retaliation

- a. Retaliation is any overt or covert act of reprisal, interference, restraint, penalty, discrimination, intimidation or harassment, against any person or group for exercising any rights secured by Title IX or pursuant to the Title IX Policy.
- b. Prohibited retaliation includes retaliatory harassment and retaliation through a third person or persons.
- c. Retaliation which violates the Title IX Policy includes charges filed against an individual for code of conduct violations that: (1) do not involve sex discrimination or sexual harassment, but (2)

assistance in this process to the extent necessary to enable these individuals to provide effective advice and/or support.

- d. The University may also be required to permit a student to inspect and review records related to a complaint or investigation to the extent that they constitute education records as defined in the Family Education Rights and Privacy Act.
- e. The University will comply with requests or subpoenas for records related to a Formal Complaint or investigation as required by law.

10. Written Communications

The communication of notices and/or written communications will, generally, be addressed to the responsible party. Parties are responsible for regularly checking their email accounts.

11. Advisor of Choice and Participation of Advisor of Choice

- a. Parties are required to participate in this Procedure directly and not through an advocate or representative. Parties participating as Complainant or Respondent in this Procedure may be accompanied by an Advisor of Choice. The Advisor of Choice is present to support a Party, is not an advocate and cannot speak for a Party, except where explicitly stated in this Title IX Grievance Procedure and consistent with the Final Rule.
- b. The University permits the Parties to have equal access to Advisors of Choice. Limitations on participation by Advisors of Choice apply equally to both Parties.
- c. The Parties have the right to select one Advisor of Choice, including an attorney.
- d. Proceedings held pursuant to this Title IX Grievance Procedure.
- e. The University will attempt to schedule proceedings pursuant to this Procedure on dates where an Advisor of Choice is available.

12. Notice of Meetings and Interviews

The University will provide, to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a Party, with sufficient time for the Party to prepare to participate.

13. Delays

Each Party may request in writing to the Title IX Coordinator a one-time delay at any point in the Title IX Grievance Procedure of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator or designee) provided that the requesting Party provides reasonable notice and the delay does not overly inconvenience other persons involved in the proceeding. The Title IX Coordinator may grant further extensions of time and/or pauses in the Procedure on reasonable grounds.

14. Bias

The Parties may raise concerns about bias and conflict of interest of the Title IX Coordinator, Investigator or Decision-Maker during this process, including at the commencement of the Live Hearing. Issues of bias must be raised as soon as a Party learns of facts which are alleged to demonstrate the existence of bias or conflict of interest.

th the Title IX Coordinator as soon as a Party becomes aware of facts that create the concern. Concerns about the Decision-Maker at the Live Hearing, or if the concern about bias or conflict of interest does not arise until after the Live Hearing is concluded, in writing to the Title IX Coordinator as soon as a Party learns of facts which are alleged to demonstrate the existence of the bias or conflict of interest. The Title IX Coordinator and/or the Decision-Maker will consider the allegation of bias or conflict of interest, but is not required to stop the proceedings pursuant to this Title IX Grievance Procedure, including the Live Hearing, because a Party has made an allegation of bias or conflict of interest.

15. Training

Any person serving as a Title IX Coordinator, Investigator, Advisor of Choice, Decision-Maker, Informal Resolution Facilitator, Decision Maker on a matter of Emergency Removal or appeal of an Emergency Removal, or Decision-Maker on Appeal will first receive training on all topics required by the Final Rule. The Title IX Coordinator will post the training as required by the Final Rule on the Title IX webpages.

C. Where to Report Covered Sexual Harassment

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using

the contact information listed for the Title IX Coordinator, or by any other means that results in

Contact Information for the Title IX Coordinator and Deputy Title IX Coordinator:

Name: Rachel Lutner
Title: Director, Office for Institutional Equity
Office Address: Administration Center, Room 236, located at 2300 Euclid Avenue
Email Address: oie@csuohio.edu
Telephone Number: 216-687-2223 or, for after-hours urgent matters, 937-756-1499

Name: LaJuan Flores
Title: Associate Director, Office for Institutional Equity
Office Address: Administration Center, Room 236, located at 2300 Euclid Avenue
Email Address: oie@csuohio.edu
Telephone Number: 216-687-2223 or, for after-hours urgent matters, 937-369-9445

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

D. Non-Investigatory Measures Available Under the Title IX Grievance Policy

1. Supportive Measures for Complainants

Complainants who report allegations that could constitute Covered Sexual Harassment under this Title IX Grievance Procedure have the right to supportive measures from the University, regardless of whether they file a Formal Complaint or participate in this Title IX Grievance Procedure. Supportive measures are non-disciplinary and non-punitive.

As appropriate, supportive measures may include, but are not limited to:

- a. Counseling
- b. Academic support, including extensions of deadlines or other course-related adjustments
- c. Modifications of work or class schedules
- d. Campus escort services
- e. Safety planning
- f. No contact directives
- g. Changes in work or residential locations
- h. Excused absences
- i. Leaves of absence
- j. negative impact to academic standing
- k. Increased security and monitoring of certain areas of the campus

2. Supportive Measures for Respondents and others

Respondents and others, including witnesses or roommates, who are impacted by allegations that could constitute Covered Sexual Harassment under this Title IX Grievance Procedure have the right to receive the supportive measures listed above, if appropriate, regardless of whether they participate in an investigation.

3. Emergency Removal of Student or Employee

- a. The University may remove a Respondent from _____ program or activity on an emergency basis when the University (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual exists related to the allegations of Covered Sexual Harassment. Such removal may include academic or other suspension, and/ _____ if the Respondent is a student, or the placement on a leave of absence, if the Respondent is an employee.
- b. Emergency Removal of a Student Respondent
 - i. The Title IX Coordinator or designee will advise the student and other appropriate persons in writing of the emergency removal, its terms and the justification for it.
 - ii. The Respondent may respond in writing to the Title IX Coordinator within three working days of the date of the communication advising of the emergency removal. Within three (3) working days of receipt of any responses, the Title IX Coordinator will meet with the Chief Student Affairs Officer or designee to review the response and jointly recommend to the Provost or designee that the emergency removal is affirmed or revoked.
 - iii. Within three (3) working days of receipt of the recommendation, the Provost or designee will make the final decision to affirm or revoke the emergency removal. If the suspension is revoked, other interim measures may be imposed. The Title IX Coordinator or designee will inform all relevant parties of the determination of the review of the emergency removal.
- c. Administrative leave. The University retains the authority to place a non-student employee respondent on administrative leave during the Title IX Grievance Procedure, consistent with applicable policy or collective bargaining agreement.
- d. The decision-maker on the issue of the need for emergency removal or interim administrative leave or the appeal of such removal or leave, shall not be otherwise involved in subsequent proceedings of the matter pursuant to this Title IX Grievance Procedure.

- a. The conduct is alleged to have occurred on or after August 14, 2020;
- b. The conduct is alleged to have occurred in the United States;
- c. The conduct is alleged to have occurred in an education program or activity of the University; and
- d. The alleged conduct, if true, would constitute Covered Sexual Harassment as

evidence upon which the Decision-Maker does not intend to rely in reaching a Determination of Responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a Party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi); and

vi. A statement that a Party who makes a false statement or allegation during the

The Live Hearing will proceed in this order:

- a. The Decision-Maker will begin the Live Hearing by establishing rules and expectations for hearing participants.
- b. The Parties will each be given the opportunity to make an opening statement.
- c. The Decision-Maker will question the Parties and Witnesses about the evidence set out in the Investigation Report.
- d. In an order determined the Decision-Maker, the Parties, through their Advisors, may cross-examine any other Party or Witness. During any cross-examination, the Decision-Maker may interject with follow up questions.

7. Live Cross-Examination Procedure

- a. Each Party's Advisor will conduct live cross-examination of the other Party or Parties and witnesses. The Advisor may ask relevant questions and follow-up questions, including those challenging credibility.
- b. Before the Party or witness being questioned responds to any cross-examination question, the Decision-Maker will determine if the question is relevant. Cross-examination questions that are duplicative of questions previously asked and answered at the Live Hearing, may be deemed irrelevant.
- c. The Decision-Maker may not cross-examine a Party or Witness. The Decision-Maker is responsible for making sure the record of the Live Hearing reflects that the Decision-Maker's cross-examination does not prevent the Decision-Maker from using statements made by the Party or Witness in the determination of responsibility.

8. Witnesses Who Lack First Hand Knowledge of the Events Alleged in the Formal Complaint

- a. Except where prohibited by the Title IX Final Rule, a Party may offer at the Live Hearing the testimony of a witness who does not possess first-hand knowledge of the facts. The Decision Maker will give information that a witness heard or learned from another person, indirectly, lower weight than information provided by a witness with first-hand, direct knowledge of the matter.
- b. Expert testimony presented at the Live Hearing. Notwithstanding that expert witnesses may be presented at the Live Hearing, the Decision-Maker will give information provided by experts less weight relative to the statements of witnesses with direct knowledge about the events alleged in the Formal Complaint.
- c. Parties may present character witnesses at the Live Hearing. Notwithstanding that character witnesses may provide information at the Live Hearing, the Decision-Maker will give information provided by character witnesses very low weight.

- i. Expulsion: the permanent separation of the Respondent from the University without the option for readmission in the future;
- ii. Suspension: separation of the Respondent from the University for a period of one, two, three, four, five, six, seven or eight semesters, and
- iii. Disciplinary probation: formal writt conduct violated the Policies and that continued enrollment of the a going forward basis;
- iv. Reprimand: a written statement placed in the disciplinary file of the Respondent and maintained in Student Affairs or documentation of a verbal reprimand issued to the respondent;
- v. Restitution: A requirement that the Respondent reimburse the Complainant for damages;
- vi. Restriction: temporary or permanent loss of:
 - 1. Use of any or all University facilities or services;
 - 2. The ability to participate in University extra-curricular activities, athletics or student organizations; and
 - 3. The ability to serve in a student leadership or advisory role.
- vii. Community Service: requiring the Respondent to render a designated amount of specified service to the University or community;
- viii. Education: requiring the Respondent to attend a specified training or education program, whether on-line or otherwise; and
- ix. Counseling: requiring the Respondent to meet with professional staff in the

- x. Continuation of No Contact Directives: requiring the Respondent to comply with a new or ongoing No Contact Directive;
- xi. Creative or alternative sanctions: enrolling in and completing anger management or batterer intervention courses, performing volunteer work, writing essays, completing a 12-step or other addiction program, enrolling in and completing a sex offender rehabilitation program, issuing a sincere apology, and any other remedy appropriate for the circumstances.
- xii. Other remedies may include: providing an escort; ensuring that the Complainant and Respondent do not attend the same class, work together or participate in the same extracurricular activities; relocation to a different residence hall or work area; providing counseling services or additional academic support services; arranging for the Complainant to re-take a course or withdraw from a class without penalty; job reassignment; targeted training for a group of students, faculty, or staff; and training, education initiatives or other remedies tailored to the circumstances.
- e. The Title IX Coordinator will work with the appropriate administrator(s) to monitor corrective action to ensure compliance. The Title IX Coordinator is responsible for ensuring that the necessary action steps are completed.
- f. Remedial action may be imposed on any individual who had a duty to report potential discrimination, harassment or sexual violence and who failed to act in a manner consistent with the Policies and these Procedures.

- invite discussion of a voluntary informal resolution of the matter, or the Title IX Coordinator or designee may invite the Parties to voluntarily participate in this Informal Resolution Process.
2. Informal resolution is a voluntary alternative to the investigation and Live Hearing described in the Title IX Grievance Procedure.
 3. If a Party or the Title IX Coordinator or designee invites the Parties to participate in an informal resolution process, the Title IX Coordinator or designee will provide the Parties with a Notice of Informal Resolution which contains:
 - a. The allegations of Covered Sexual Harassment in the Formal Complaint;
 - b. The requirements of the Informal Resolution Process, including that once the Parties agree in writing by signature or other indication of the intent to resolve a Formal Complaint through an informal resolution agreement, the Party or Parties will be precluded from seeking resolution of the Formal Complaint through the Investigation and Live Hearing described in the Title IX Grievance Procedure;
 - c. That at any time prior to signing an informal resolution agreement, any Party has the right to withdraw from the Informal Resolution Process and resume the investigation and Live Hearing process with respect to the Formal Complaint;
 - d. That the Parties may be accompanied by an Advisor of Choice at meetings relating to the Informal Resolution Process;
 - e. Any consequences that will or may result to a Party as a result of their participation in the Informal Resolution Process;
 - f. That the Title IX Coordinator or designee will maintain the following records: the Formal Complaint; related correspondence; to participate in the Informal Resolution Process; and documentation regarding any informal resolution reached to resolve the Formal Complaint; and
 - g. That the University may be required by the Ohio Public Records Act or otherwise by law, to share the records participation in the Informal Resolution Process.
 - h. To initiate or participate in an Informal Resolution Process, the Parties must provide the Title IX Coordinator with written acknowledgment that their participation is entirely voluntary.
 - i. The Informal Resolution Process is not available to resolve a Formal Complaint which alleges that a University employee subjected a student to Covered Sexual Harassment.
 - j. Informal resolution may involve mediation, shuttle diplomacy or restorative justice, or any other method to which the Parties voluntarily consent.
 - k. An informal resolution may include no contact provisions, sanctions for a Respondent, restorative measures, restitution, as well as other remedies agreed to by the Parties and approved by the Title IX Coordinator.

August 10, 2020