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Note that conduct that does not meet one or more of these criteria may still be prohibited under the Student Code of Conduct or University policies.

Consent

Consent means informed, freely and actively given, mutually understandable words or actions, which indicate a willingness to engage in mutualq0.000005tuaes.

Intimidation is implied threats, including the exertion of perceived or actual power resulting from position or stature.

A person must be of legal age (16) to give consent.

An incapacitated person cannot give consent. Sexual activity with someone whom one should know to be mentally or physically incapacitated (by alcohol or other drug use, unconsciousness, or blackout) does not consent to sexual activity and therefore is a violation of this policy.

Incapacitation is a state where someone cannot make rational, reasonable decisions

Incapacitation may result from mental disability, sleep, involuntary physical restraint, and alcohol or drug

any drug intentionally used to incapacitate another victim to assist in the execution of drug-facilitated sexual assault.

Possession, use, and/or distribution of any so-called , and administering these drugs to another person is a violation of this policy.

Being under the influence of alcohol or other drugs will not excuse behavior that violates this policy.

Education Program or Activity

Education programs or activities include:

Any on-campus premises.

Any off

Formal Complaint
A formal complaint 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 sexual harassment against a respondent about conduct within the

initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

Complainant
Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

Relevant evidence and questions

Respondent
Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

Privacy vs. Confidentiality
References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean the University offices and employees cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. The University will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Making a Report Regarding Covered Sexual Harassment to the University
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

written report.

Contact Information for the Title IX Coordinator
Name: Julie Saker
Title: Title IX Coordinator
Office Address: 65 W. Home Street on Cochran Alley
Email Address: jsaker@otterbein.edu
Telephone Number: 614.823.1554

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.

Confidential Reporting
The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

Julie Saker, Coordinator, Title IX
Sydney Ingram, IX Investigator
Molly Miller, IX Investigator

Officials of Authority
President
Provost
Executive Vice President for Strategic Initiatives
Vice President of Business Affairs
Vice President of Institutional Advancement
Vice President of Enrollment Management
Vice President of Student Affairs
Chief Diversity Officer
Executive Director of the Point
Director of Residence Life

The following Officials may provide confidentiality:

Employee Confidential Resources
Employee Assistance Program 800.865.1044

Student On-Campus Confidential Resources

Mental Health Counselor 614.823.1333
Director of Faith and Spiritual
Life, Rev. Lucy Kelly, Associate
Pastor Church of the Master 614.822.2153

Off-Campus Confidential Resources for Employees and Students

SARNCO - Sexual Assault Response Network of Central Ohio
614.267.7020
CHOICES - 24 Hour Domestic Violence Hotline
614.224.4663
Mt. Carmel Crime & Trauma Assistance Program -
614.234.5900
Buckeye Region Anti-Violence Organization (BRAVO) -
614.294-7867
Rape, Abuse, & Incest National Network (RAINN)
800.656.4673

Anonymous Reporting

The following resources provide anonymous reporting options.

investigate and resolve the complaint fully.

Campus Conduct Hotline

Non-Investigatory Measures Available Under the Title IX Grievance Policy

Supportive Measures

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures from the University regardless of whether they desire to file a complaint, which may include supportive measures offered as appropriate. Supportive measures are non-disciplinary and non-punitive.

Supportive Measures suggested by the Preamble: As appropriate, supportive measures may include, but not be limited to:

- Counseling
- extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- campus escort services
- restrictions on contact between the parties (no contact orders)
- changes in work or housing locations
- leaves of absence
- increased security and monitoring of certain areas of the campus

provides on-campus peer advocate training and resources. The WGSRC offers knowledgeable support to survivors of sexual violence; to students questioning their gender, sexuality, sex, or relationships; or to students experiencing depression, anxiety, or psychological/emotional distress.

Emergency Removal

The University retains the authority to remove a respondent from

where 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 arising from the allegations of covered sexual harassment justifies a removal.

If the University determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. The student may immediately submit a written appeal of the removal decision to the Vice President of wpr

To file a Formal Complaint, a complainant must provide the Title IX Coordinator with a written, signed complaint describing the facts alleged. Complainants can

Determining Jurisdiction

The Title IX Coordinator or another appropriate official without a conflict of interest or bias will determine if the instant Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in the

4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, the University will investigate the allegations according to the Grievance Process. Complaints brought before August 14, 2020, will be investigated and adjudicated according to the Sexual Misconduct Policy 117.0 if a case is not complete by that date.

Allegations Potentially Falling Under Two Policies:

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied to the investigation and adjudication of only the allegations that constitute covered sexual harassment.

Mandatory Dismissal

If any one of these elements is not met, the Title IX Coordinator or another appropriate official without a conflict of interest or bias will notify the parties that the Formal Complaint is being dismissed for the Title IX Grievance Policy. Each party may

below.

Discretionary Dismissal

The Title IX Coordinator or another appropriate official without a conflict of interest or bias may dismiss a Formal Complaint brought under the Title IX Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;

The respondent is no longer enrolled or employed by the University; or,

If specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process outlined

Notice of Dismissal

Upon deciding that the Formal Complaint will be dismissed, the University will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their University email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

Notice of Removal

Upon dismissal for Title IX, the University retains discretion to utilize the Student Code of Conduct and/or Sexual Misconduct Policy to determine if a violation of the Student Code of Conduct and/or Sexual Misconduct Policy has occurred. If so, the University will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process and removal of the allegations to the other conduct process.

Notice of Allegations

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable after the University receives a Formal Complaint of the allegations if there are no extenuating circumstances. The parties will be notified by their University email accounts if they are a student or employee, and by other reasonable means if they are neither. The University will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

Contents of Notice

The Notice of Allegations will include the following:

any informal resolution process and a hyperlink to a copy of the process.

Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the

Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.

A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made after the grievance process.

A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.

A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the

University does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.
A statement that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Ongoing Notice

If, in the course of an investigation, the University decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered as
Grievance Policy, the University will notify the parties whose identities are known of the additional allegations by their University email accounts or other reasonable means. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

Advisor of Choice and Participation of Advisor of Choice

The University will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

The University has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of the University.

to whom the records belong or of whom the records include

The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to

responses before completing the Investigative Report. Parties may request a reasonable extension as their designated extension request.

responses to the investigator to all parties and their advisors, if any. Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. The parties and their advisors agree not to photograph or otherwise copy the evidence.

Inclusion of Evidence Not Directly Related to the Allegations

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

Investigative Report

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence, will and provide that Report to the parties at least ten (10) calendar days prior to the hearing for w and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

General Rules of Hearings

The live hearing may be conducted with all parties physically present in the same geographic location, or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through remote video conferencing. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors, not

All proceedings will be recorded through audiovisual recording. That recording or transcript will be made available to the parties for inspection and review.

If a party identifies new evidence or witnesses that were not reasonably available before the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Decision-maker will consider this request and determine (1) whether such evidence or witness testimony was unavailable by reasonable effort before the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Decision-maker answers in the affirmative to both

harassment. (Digital media includes, but is not limited to, text messages, emails, and social media postings.) The University will not threaten, coerce, intimidate, or discriminate against the party in an attempt to

The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a

answer cross-examination or other questions.

The Decision-maker

The hearing body will consist of a single decision-maker.
The Decision-maker will not have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may the Decision-Maker hear the appeal if filed.
The Decision-maker will not have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
The Decision-maker will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
The parties will have an opportunity to raise any objections regarding a decision-
perceived conflicts of interest or bias at the commencement of the live hearing.

Advisor of Choice

The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the University will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.

The advisor is not prohibited from being a witness in the matter.

advisor may appear and conduct a cross-examination on their behalf.

If neither a party nor their advisor appears at the hearing, the University will provide an advisor to appear on behalf of the non-appearing party.

Witnesses

Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.

Prehearing Conference

Each party will have their own pre-hearing conference. The Title IX Coordinator will communicate to the parties, their advisors, and the Hearing Chair the date, time, and format for their Pre-Hearing Conference. The Title IX Coordinator, the Hearing Chair, and the advisor must be in attendance. While the parties are strongly encouraged to attend, they are not required to do so.

During the Pre-Hearing Conference, the advisors must share with the Hearing Chair their list of witnesses to appear at the hearing, the identity of any requested witnesses that were not questioned during the investigation, the request for any new evidence to be considered that was not submitted previously to the investigators, and the availability of the advisor and the party for hearing dates.

Evidence and witnesses may only be presented at the hearing if they were submitted to the investigators and made available to the parties for review, unless they were unavailable at the time of the investigation or the relevance was unknown until the investigative report was submitted.

General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-

While the expert witness will be allowed to testify and be crossed, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross-examination and regardless of whether all parties present experts as witnesses.

The University allows parties to call character witnesses to testify. While the character witnesses will be allowed to testify and be crossed, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requir to

factual character testim on

The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of an appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the University will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals may be no longer than ten (10) pages (including attachments). Appeals should be submitted in electronic form using ARIAL or TIMES NEW ROMAN, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that a technical malfunction caused the appeal document not to meet these standards. The appeal will be submitted to the Title IX Coordinator.

free of conflict of interest and bias and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter.

The outcome of the appeal will be provided in writing simultaneously to both parties and include the rationale for the decision.

Retaliation

The University will keep the identity of any individual who has made a report or complaint of sex discrimination confidential,

Title IX Pregnanc

To have an advisor other than the university-provided support person to assist during the investigation and resolution process.

To have related policy, process, and support information explained clearly and fully at every stage of the conduct process.

To suggest names of witnesses to be interviewed during the investigation process and provide the investigator with questions that

The *Campus Life Handbook* is updated by the Student Affairs Office. If you have any questions, please call 614.823.1250 and we will be glad to help you.

Office of Student Affairs
614-823-1250

RAINN | The nation's largest anti-sexual violence organization
https://www.rainn.org/