



Ohio University
Student Code of Conduct
Effective August 23, 2021

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Part A: Mission

Ohio university, including its regional campuses and online programs, holds as its central purpose the intellectual and personal development of its students. Distinguished by its rich history, diverse campus, international community, and beautiful Appalachian setting, Ohio university is also known as well for its outstanding faculty of accomplished teachers whose research and creative activity advance knowledge across many disciplines. It is this purpose that provides the aspirational basis for the “Student Code of Conduct”.

As we like to remind students, they are Bobcats no matter where they are. This means that each member of the OHIO community is responsible for their behavior, both on and off campus. When occasions arise where members of the community engage in behavior that violates the prohibited conduct listed in Part D, the process described within the Code of Conduct will be initiated. This process exists to protect the interest of the community and to challenge those whose behavior is not in accordance with our expectations of members of the Ohio university community. The university fully recognizes the right of all students to seek knowledge, debate, and freely express their ideas. Discourse and disagreement are fundamental components of any academic endeavor, and students will not be subject to disciplinary action for their lawful expression of ideas.

Sanctions implemented through the process are designed to give students the opportunity to reflect on their choices, challenge their ethical decision-making, and aid them in adjusting their behavior to become congruent with our community expectations. Being a member of the Ohio university community is a privilege, and the community standards process will determine if a student’s conduct warrants that they should no longer share in that privilege.

Part B: Scope of the Code

The “Student Code of Conduct” applies to the conduct of individual students, student organizations and student groups, both undergraduate and graduate, including students enrolled in the heritage college of osteopathic medicine, at regional and extension campuses, through the college credit plus program, and in distance education programs, such as e-learning. The right of all students to seek knowledge, debate and freely express their ideas is fully recognized by the university. The prohibited conduct described in Part D applies to student behavior and will not be used to impose discipline for the lawful expression of ideas.

The “Student Code of Conduct” applies to all students, student organizations and student groups, whether the alleged behavior occurred on or off campus. Further, the “Student Code of Conduct” may also be applied to behavior conducted online, via e-mail or through other electronic mediums. Ohio university does not regularly search for this information, but may take action if such information is brought to the attention of University officials.

Sexual harassment and misconduct, as defined by University Policy 03.004 (See Appendix C) and prohibited by the Student Code of Conduct, will be addressed through the Sexual Harassment and Other Sexual Misconduct Process (See Appendix B). Allegations of other conduct prohibited by the Student Code of Conduct may be investigated and adjudicated through the Sexual Harassment and Other Sexual Misconduct Process in conjunction with sexual harassment or sexual misconduct allegations.

The processes described in the code of conduct may be initiated when a student is charged with conduct that potentially violates both civil/criminal law and University policy, without regard to pending litigation in court or criminal arrest and prosecution. This includes instances where a current student is charged with serious violations of civil or criminal law, regardless of when that violation occurred. The community standards process may be carried out prior to, simultaneously with, or following criminal proceedings off campus. Determinations made and sanctions imposed under the "Student Code of Conduct" will not be subject to change because criminal charges arising out of the same facts were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

Part C: Definition of Terms

The below definitions apply to the community standards process. For definitions and other information related to the "Sexual Harassment and Other Sexual Misconduct Process", please see the Appendix B.

1. **Advisor** – An Ohio university employee or student selected by the complainant or respondent to assist them throughout the community standards process. This advisor may advise and assist the complainant or respondent in the preparation for any meetings or hearings that may occur; accompany the complainant or respondent through all community standards process meetings and hearing; and to actively participate in the proceedings to the extent desired by the complainant or respondent. Advisors may not be witnesses in the matter at hand, and they may not provide direct information or testimony at any point in the process. Advisors are not provided as part of the community standards process, and complainants and respondents wishing to use an advisor are responsible for obtaining one.
2. **Campus** – Property or buildings owned, leased, operated, controlled or managed by Ohio University, including all regional campuses, regardless of their location.
3. **Complainant** – Person who was subject to alleged misconduct as described in the "Student Code of Conduct". There may be more than one complainant for an incident.
4. **Hearing Authority** – Any person, or persons, authorized by the director of the office of community standards and student responsibility, or designee to make findings as to whether a student has violated the prohibited conduct part of the "Student Code of Conduct". This includes but is not limited to housing and residence life staff, office of community standards and student responsibility staff, and members of the university hearing board. The director of the office of equity and civil rights compliance authorizes individuals to serve as a hearing authority to make determinations in the sexual harassment and other sexual misconduct process.
5. **Hearing Board Advisor** – A staff member from the office of community standards and student responsibility designated to advise members of the university hearing board during university hearing board hearings.
6. **Hearing Board Chair** – A member of the university hearing board who has been designated by the hearing board advisor to serve as the chairperson for a university hearing board hearing.
7. **Hearing Officer** – A hearing authority who has been designated to preside over an administrative hearing and make findings as to whether a student has violated the prohibited conduct part of the "Student Code of Conduct".

8. **Members of the University Community** – Refers, collectively and individually, to faculty, staff, students, trustees, volunteers (e.g., advisors), organizations, groups, alumni, and contractors of the university or any of its campuses, facilities, programs, or events.
9. **Preponderance of Evidence** – Standard of proof used by the hearing authority. Preponderance of evidence means that the statements and information presented in the matter must indicate to a reasonable person that it is more likely than not that the respondent committed a violation.
10. **Referral** – Document which contains the basis for the alleged violation of the prohibited conduct part of the “Student Code of Conduct”, including but not limited to police reports or incident reports submitted to the office of community standards and student responsibility.
11. **Referring Party** – Person or office which reported the alleged violation of the prohibited conduct part of the “Student Code of Conduct” to the office of community standards and student responsibility.
12. **Respondent** – Student, student group, or student organization whom it is alleged committed a violation or violations of the “Student Code of Conduct”. There may be more than one respondent for an incident. In the cases of student groups or student organizations, the president, director, or other member of leadership will participate in the student conduct process on behalf of the group or organization.
13. **Student** – Any person from the time they are admitted to Ohio university up through the date of graduation. This includes, but is not limited to, new students at orientation, persons not currently enrolled but who are still seeking a degree from Ohio university, persons currently under suspension, and any other person enrolled in a credit earning course offered by Ohio university, including students enrolled in the college credit plus program. For purposes of exercising jurisdiction for university discipline, it also includes any person who has graduated from Ohio university if the university determines that his/her graduation or receipt of credit may have involved misconduct while he/she was working toward a degree as well as currently enrolled students who have been charged with serious violations of civil or criminal law, regardless of when that violation occurred.
14. **Student Groups** - A number of persons who are associated with the university and each other, but who have not registered, or are not required to register, as a student organization (included but not limited to athletic teams, musical or theatrical ensembles, academic or administrative units, clubs not registered as a student organization).
15. **Student Organization** - A number of persons who are associated with one another and have registered with the university as a student organization, including but not limited to clubs, club sports, or fraternities and sororities.
16. **Support Person** – Any person chosen by either the complainant or the respondent to provide support to them throughout their interactions with CSSR. This person does not actively participate in the process, but can be present at meetings and hearings to provide support to the complainant or respondent. The support person cannot be a witness in the matter in question.
17. **University** – Ohio university, including all of its regional campuses and online programs.

18. **University Appeal Board**– A panel of three individuals selected to review appeals as described in Part 8. The panel will be made up of three individuals from the university hearing board: either one faculty member, one staff member, and one student or one faculty or staff member, and two students.
19. **University Hearing Board**– A panel of three individuals who are responsible for hearing matters involving alleged violations of the prohibited conduct part of the “Student Code of Conduct” when the director, associate director, assistant director, or hearing officer in CSSR has determined that suspension or expulsion may be appropriate sanctions if the respondent is found responsible for the charge(s). A hearing board is composed of two students and one faculty or staff member.
20. **University Official** – Any person employed by the university (including but not limited to faculty, staff, administration, and student staff members) acting within the scope of their job duties.
21. **Witness** – Person who is requested to participate in an investigation or a hearing because they may have information about the alleged misconduct. Witness names may be supplied by the complainant, respondent, or others with knowledge of the matter. All witnesses requested to appear at a hearing by CSSR will be considered university witnesses.

Part D: Prohibited Conduct

The university considers the behavior described in the following sub-parts as inappropriate for members of the Ohio university community. These rules apply to all Ohio university students, student groups, and student organizations for behavior that occurs both on and off campus. The right of all students to seek knowledge, debate and freely express their ideas is fully recognized by the university.

1. Academic Misconduct

- a. Plagiarism: Using another’s work, in whole or in part, without acknowledging the source and presenting that material as one’s own academic work. This includes, but is not limited to:
 - i. Reproducing another person's work, whether published or unpublished (this also includes using materials from companies that sell research papers)
 - ii. Using another's ideas or written words without properly acknowledging the source:
 - a. Quoting a source word for word without providing quotation marks and citations.
 - b. Copying words or ideas from a source without appropriate citations.
 - iii. Submitting work that is substantially identical to another source in content and/or organization without appropriately citing the source.
 - iv. Using other intellectual property in a work without appropriate citations, permissions, or rights (when applicable). Intellectual property includes but is not limited to images, videos, software programs, computer code, or pieces of music.
- b. Cheating: Any attempt by a student to answer questions on a test, quiz, or assignment by means other than his or her own knowledge, without authorization from the instructor resulting in unfair academic advantage. This includes, but is not limited to:
 - i. Using the textbook or other materials, such as a notebook, not authorized for use during an examination.

- ii. Using technology (i.e. cell phones, laptop computers, social media, text messages, etc.) to aid in the completion of work when not permitted to do so.
- iii. Observing or copying the work of another student or allowing another student to plagiarize, copy, or observe one's own work.
- iv. Using unauthorized material during a test, notes, formula lists, notes written on clothing, etc.
- v. Taking a quiz, exam, or similar evaluation in place of another person.
- vi. Providing or requesting assistance from another person in a manner prohibited by the instructor.
- vii. Using a laboratory, computer, or calculator inappropriately or without authorization.
- viii. Changing material on a graded exam and then requesting a re-grading of the exam.
- ix. Acquiring unauthorized knowledge of an examination or any part of an examination.
- x. Signing in any person other than one's self for class attendance.
- c. Multiple Submissions: Submitting the same academic work for credit more than once unless specifically authorized by the instructor of record.
- d. Fabrication or Falsification: Knowingly using and/or presenting invented or fabricated information, falsified research, or other findings.
- e. Misrepresentation: Misrepresenting facts in an attempt to gain an academic advantage. This includes, but is not limited to:
 - i. Providing false or misleading information in an attempt to receive an extension or postponement of a test, quiz, or other assignment.
 - ii. Providing false or misleading information in an attempt to receive a re-take of an exam or a re-submission of an assignment.
 - iii. Providing false or misleading information as part of an academic probation/dismissal appeal process.

Please note: An instructor may impose a grade penalty for academic misconduct and/or file a disciplinary referral.

2. Possessing/Providing False and Misleading Information

- a. Furnishing false information to university officials or law enforcement officers acting within the scope of their job duties.
- b. Forgery, alteration, or misuse of university documents and/or records.
- c. Possession, use and/or attempted use of false identification.
- d. Manufacture, distribution, or sale of false identification.
- e. Transferring, lending, borrowing or altering university identification.

3. Alcoholic Beverages Violation

- a. Use and/or possession of alcoholic beverages except as expressly permitted by law and University Policy 24.001. This includes, but is not limited to, the underage possession or consumption of alcohol.
- b. Selling, distributing, or furnishing of alcoholic beverages except as expressly permitted by law and University Policy 24.001. This includes, but is not limited to providing alcohol to a person under the legal drinking age.
- c. Furnishing or causing to be furnished any alcoholic beverage to any person in a state of noticeable intoxication.
- d. Misconduct under the influence of alcohol including but not limited to operating a vehicle under the influence, disorderly conduct by intoxication, and public intoxication.

- e. Failure of a student organization to take all necessary steps to ensure that no person under the legal drinking age possesses alcoholic beverages at functions it sponsors or within any property or transportation it owns, operates, and/or rents.

4. Controlled Substance and/or Drug Violation

- a. Use and/or possession of marijuana or substances derived from marijuana, except as expressly permitted by law.
- b. Use and/or possession of other controlled substances except as expressly permitted by law.
- c. Use and/or possession of drug related paraphernalia except as expressly permitted by law.
- d. The abuse, misuse, sale, or distribution of prescription or over the counter medication.
- e. Manufacture, distribution, sale and/or offer for sale of any controlled substance or drug, except as expressly permitted by law.
- f. Intentionally or recklessly inhaling or ingesting substances (e.g. nitrous oxide, glue, paint, etc.) that will alter a person's state of mind.
- g. Misconduct under the influence of a controlled substance, including but not limited to operating a vehicle under the influence, disorderly conduct by intoxication, and public intoxication.

5. Disruptive Conduct

- a. Conduct that substantially and materially disrupts or interferes with university operations including but not limited to teaching, research and/or administrative activities which occur on or off campus.
- b. Causing, inciting, or participating in any disturbance that presents a clear and present danger to others, causes physical harm to others, or damage and/or destruction of property, including but not limited to participating in or inciting a riot.
- c. Failure to comply with lawful orders of university officials or law enforcement officers acting within the scope of their job duties.
- d. An act which deliberately interferes with the freedom of speech of any member or guest of the university community.
- e. Misuse and/or tampering with any university safety equipment including but not limited to firefighting equipment, fire alarms, smoke detectors, blue light phones, etc.
- f. Public Urination
- g. Election Tampering: Tampering with the election of any Ohio university recognized student organization, including the student senate.

6. Harmful Behavior

- a. Physical harm or threat of physical harm to any person.
- b. Harassment: Unwelcome conduct (including written or electronic communication) that is so severe, pervasive, and objectively offensive that it substantially interferes with the ability of a person to work, learn, live or participate in, or benefit from the services, activities, or privileges provided by the university. In no event shall this provision be used to discipline a student for speech protected by the first amendment of the United States.

- c. Discrimination: Unwelcome conduct (including written or electronic communication) against another individual that is based upon an individual protected category (as defined in Ohio University Policy 40.001) that is so severe, pervasive, and objectively offensive that it substantially interferes with the ability of a person to work, learn, live or participate in, or benefit from services, activities, or privileges provided by the university. In no event shall this provision be used to discipline a student for speech protected by the first amendment of the United States.
- d. Reckless but not accidental action that poses a reasonable risk of physical harm to others.
- e. Stalking: (For stalking based on sex or gender, please see Section D.7.h., below.) A course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or that would cause a reasonable person to suffer substantial emotional distress. A "reasonable person" is a person under similar circumstances or similarly situated to the victim. "Substantial emotional distress" is significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling. Stalking requires two or more acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means engages in the following behaviors: follows, monitors, observes, surveils, threatens, or communicates to or about a person; or interferes with a person's property. The following are examples of behaviors that could constitute stalking: sending unwanted emails, texts, letters, or gifts; asking someone or someone's acquaintances where they are or where they are going; repeatedly calling someone on the phone; using the internet to threaten someone; appearing at someone's class or workplace without a legitimate reason.

7. Sexual Harassment and Other Sexual Misconduct

Charges under this section of the student code of conduct will be addressed through the sexual harassment and other sexual misconduct process, which may be found in Appendix B.

- a. Sexual Harassment by Quid Pro Quo: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)
- b. Sexual Harassment under Title IX: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)
- c. Non-Consensual Sexual Intercourse: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)
- d. Non-Consensual Sexual Contact: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)
- e. Sexual Exploitation: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)
- f. Domestic Violence: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)
- g. Dating Violence: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)
- h. Stalking: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)
- i. Sexual Harassment under University Policy: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct (Appendix C)
- j. Retaliation: See University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. (Appendix C)

8. Hazing

- a. Recklessly or intentionally endangering the mental, emotional, or physical health and/or safety of a student: See University Policy 23.010: Hazing.

- b. Brutality of a physical nature: See University Policy 23.010: Hazing.
- c. Coerced consumption: See University Policy 23.010: Hazing.
- d. Acts intended to cause mental stress: See University Policy 23.010: Hazing.
- e. Coerced activities: See University Policy 23.010: Hazing.
- f. Acts of sexual harassment or other sexual misconduct as defined by University Policy 03.004.

9. Theft

- a. Taking without consent the property or services of the university, another person, business, or organization.
- b. Possessing property that can reasonably be determined to have been stolen from the university, another person, business, or organization.

10. Damage to Property

- a. Vandalism, destruction, or damage to public or private property.
- b. Reckless but not accidental action that poses a reasonable risk of damage or destruction of public or private property.

11. Use or Possession of Weapons and/or Dangerous Materials

- a. Possession, storage or use of weapons including but not limited to firearms, compressed-air guns, pellet guns, etc. on university owned or affiliated property except as expressly permitted by law.
- b. Possession, storage or use of dangerous materials including but not limited to fireworks, explosives or chemicals which are corrosive or explosive on university owned or affiliated property except as expressly permitted by law.
- c. Any object not mentioned above used to intimidate, threaten, harm, and/or provide force can be considered a weapon under this provision.
- d. Use of a weapon to intimidate, threaten, or harm another person. The possession of pepper spray for personal protection is permitted. A violation of this policy includes: the misuse of pepper spray in a manner that causes or threatens serious harm to the safety and security of others.

12. Misuse of Keys and/or Access Device

- a. Unauthorized use, distribution, duplication, or possession of any key or other access device issued for any campus building, structure, room or facility.

13. Misuse of the University Disciplinary Processes

- a. Falsification, distortion, or misrepresentation of information during the community standards process or sexual harassment and other sexual misconduct process, including filing a false complaint against another person.
- b. Hindering or interfering with the community standards process by failing to abide by the notice from a university official to appear for a student conduct meeting or hearing.
- c. Intimidation or retaliation in response to an individual's participation in, or use of, the community standards process.

14. Trespass or Misuse of Facilities

- a. Misuse or unauthorized use of any facility.
- b. Unauthorized entry or attempted entry into any facility.

15. Violation of Ohio University Student Housing Handbook

- a. Violation of any published housing and residence life policy, rule and/or regulation, including the housing contract.

16. Violation of University Policy

- a. Violation of any university policy and/or procedure of Ohio university.

17. Violation of Law

- a. Conduct that would constitute a violation of any local, state, and/or federal law, including violation of the Code of Ordinances of the city of Athens.

18. Complicity

- a. Presence during any know or obvious violation of university rules, regulations, policies, and/or law in such a way as to enable, condone, or encourage a violation of policy and/or the law.
- b. Failure to act as a responsible bystander, provided it is safe to do so, by choosing to not remove oneself from the situation, or to address the situation directly with other parties, or by failing to seek assistance to resolve the situation.

Part E: Community Standards Process

The following processes apply to those involved in matters being addressed by the community standards process. The process for addressing allegations of sexual harassment and other sexual misconduct may be found in Appendix B.

- 1. Referrals** – Members of the Ohio university community may file a student conduct referral alleging that a student, student group, or student organization has violated the prohibited conduct outlined in the “Student Code of Conduct”. The office of community standards and student responsibility (CSSR) may also receive referrals from external entities, including law enforcement and members of the general public. Upon receipt of a referral, the director of the office of community standards and student responsibility, or designee, may review all relevant information and may consult with any appropriate parties regarding the incident in question. It is the responsibility of the director of the office of community standards and student responsibility (CSSR) to determine the appropriateness of the referral as well as how the referral will be processed. Upon receipt of a referral and if appropriate, interim measures (including presidential interim suspension), may be implemented as outlined in Part I.
- 2. Hearing Authorities** – Hearing authorities are responsible for processing cases involving alleged violations of prohibited conduct as described in the “Student Code of Conduct”. The director of CSSR (or designee) is responsible for determining the appropriate hearing authority for each matter. The following are hearing authorities:
 - a. **Hearing Officer** – Appropriate staff members from the office of community standards and student responsibility and housing and residence life as determined by the director of CSSR (or designee) are responsible for hearing matters involving alleged violations of the prohibited conduct part of the “Student Code of Conduct” and serve to advise both the complainant and the respondent regarding procedures related to the “Student Code of Conduct”. They have the authority to conduct community standards conferences, to serve as a hearing officer in an administrative hearing and to serve as an advisor to the university hearing board and the university appeal board. They have the authority to impose a full range of sanctions under the “Student Code of Conduct”, up to and including disciplinary suspension and disciplinary expulsion.

- b. **University Hearing Board** – The university hearing board (UHB) is responsible for hearing matters involving alleged violations of the prohibited conduct part of the “Student Code of Conduct” when an appropriate CSSR staff member has determined that disciplinary suspension or disciplinary expulsion may be appropriate sanctions if the respondent is found responsible for the charge(s). A hearing board is composed of two students and one faculty member or administrator. The UHB is advised by a CSSR staff member and does not directly impose sanctions under the “Student Code of Conduct”. In instances where the respondent is found in violation, the UHB will make a recommendation regarding sanctions to the dean of students or designee, who will then impose any sanctions.

3. Community Standards Conference

Any student, student group, or student organization (hereinafter referred to as the respondent) who has been charged with an alleged violation of the prohibited conduct part of the “Student Code of Conduct” will first be scheduled for a community standards conference with the hearing authority assigned to review the allegation. The respondent will be notified in writing of the date, time, and location of the community standards conference.

Written notification will include:

- a. the specific charges pending against the respondent;
- b. a brief summary of the referral;
- c. statement of rights and responsibilities; and
- d. if applicable, a statement notifying the respondent that the alleged conduct is significant enough that they may face suspension or expulsion if the charge is substantiated.

The community standards conference is the first step in the community standards process, and serves to provide the respondent with the opportunity to discuss the allegations that led to the referral. The respondent will receive more information regarding the community standards process, clarification of their rights and options, the ability to inspect and review all relevant information as well as a range of potential sanctions for the violation in question should the charges be substantiated. After a discussion regarding the incident and review of relevant information, the respondent will have an opportunity to accept or deny responsibility for the charge(s). If the respondent accepts responsibility for the charge(s), the hearing authority will sanction the respondent as part of the community standards conference.

If the respondent denies responsibility for one or more of the charges, the hearing authority will proceed to schedule a hearing for the student. If the hearing authority has determined that should the charge(s) be substantiated, disciplinary suspension or disciplinary expulsion are not appropriate sanctions, the respondent will be scheduled for an administrative hearing. If the hearing authority determines that disciplinary suspension or disciplinary expulsion are potential sanctions, the respondent may choose either an administrative hearing or a university hearing board.

The respondent must attend the community standards conference. If the respondent fails to appear for two scheduled community standards conferences and the absence is not excused, the conference will proceed in their absence. In these instances, if the hearing authority has determined that disciplinary suspension or disciplinary expulsion are not potential sanctions should the charge(s) be substantiated, the matter will be resolved in the community standards conference based on an evaluation of the evidence available to the hearing authority at the time of the scheduled conference. If the hearing authority determines that disciplinary suspension or disciplinary expulsion are potential sanctions should the charge(s) be substantiated, the respondent may be scheduled for an administrative hearing and sent notification of that hearing. Alternatively, a hold may be placed against the student's registration until such time as the community standards process is complete. If a hearing is scheduled, the date for a hearing will be determined within a reasonable period of time following the community standards conference. Hearing notification shall include:

- a. the date, time, and location of the hearing;
- b. the specific charges against the respondent;
- c. a statement of rights and responsibilities; and
- d. in instances of administrative hearings only, the name of the hearing officer.

4. Hearings

The purpose of a hearing is to provide an equitable forum for the review of the available information regarding an alleged incident of misconduct. The hearing authority will decide by the preponderance of evidence whether or not the respondent is found responsible for the charge(s). All hearings are closed to the public, with the exception of advisors and/or support persons for the complainant and respondent. All parties directly participating in the hearing (the respondent, complainant, and staff member from CSSR or housing and residence life who is presenting the information) may remain present the entire time, excluding deliberations.

a. Types of Hearings

- i. **Administrative Hearing** – Administrative hearings are presided over by a single hearing officer. The hearing officer will be someone other than the staff member who conducted the original community standards conference. If the respondent fails to appear at a scheduled administrative hearing and the absence is not excused, the hearing may proceed in the respondent's absence or may be rescheduled at the discretion of the hearing officer. All hearings conducted under this process will be administrative hearings, unless a student is facing separation from the university (suspension or expulsion) and requests a university hearing board review their matter.

- ii. **University Hearing Board Hearing** – University hearing board hearings are presided over by members of the university hearing board. Each university hearing board hearing will have a hearing board chair. The chair is responsible for keeping the proceedings moving forward. If the respondent fails to appear at a scheduled university hearing board and the absence is not excused, the hearing may proceed in the respondent's absence or may be rescheduled at the discretion of the chair. Each university hearing board is assigned a hearing board advisor. The role of the advisor is to ensure the community standards process is adhered to and to answer procedural questions posed by any party during the hearing. The hearing board advisor will also keep the proceedings focused on issues relevant to the specific allegations. The hearing board advisor will not participate in a determination of a finding or sanction. However, the board advisor may be summoned by university hearing board members during deliberations to answer questions regarding the community standards process. Students may request a university hearing board hearing when they face possible separation from the university (suspension or expulsion), should they be found in violation.
- iii. **Sanction-Only Hearing** – Students may select a sanction-only hearing when they accept responsibility for the charges against them but would like the opportunity to have the hearing authority review the matter for the purposes of determining an appropriate sanction. Sanction-only hearings are structurally similar to administrative and university hearing board hearings, except that the hearing authority will only make a determination regarding sanctioning. The hearing authority for sanction-only hearings may be either a single administrator or the university hearing board, depending on the possible outcome facing the student, as described above.

b. Hearing Procedures for Administrative and University Hearing Board Hearings
Items i-iii will generally proceed in the order listed below, though the hearing authority reserves the right to adjust the order as appropriate or necessary.

i. Guidelines

1. The hearing authority will explain the respondent's rights and responsibilities, and, if applicable, the complainant's rights and responsibilities.
2. The hearing authority (in conjunction with the board advisor, if applicable), is responsible for assuring that these rights as well as the process described in this Part are adhered to during the hearing.
3. The respondent or the complainant may ask for the removal of a hearing authority by providing written or verbal evidence of bias.
 - a. In cases before a hearing board, the charge of bias is made to the chairperson who will determine whether it is valid. If the charge of bias is against the chairperson, the hearing board advisor shall decide whether it is valid. If bias is found, the hearing will be rescheduled.
 - b. In an administrative hearing, the charge of bias against the hearing authority can be made to the director of CSSR, prior to the hearing. The director will decide if the charge is valid. If bias is found, the director will assign a new hearing authority to conduct the hearing.

4. The hearing authority may ask questions of any party at any time throughout the hearing.
5. The hearing authority is responsible for determining the relevancy of questions asked during a hearing. The hearing authority may deem certain questions irrelevant and not allow them to be asked. In university hearing board hearings, the hearing board advisor may assist the hearing chair in those determinations.
6. The hearing authority may exclude persons from the hearing if they are disruptive or postpone the hearing because of disruptive behavior of participants or observers.

ii. Introduction

1. Each party in the room will introduce themselves and explain their role in the hearing.
2. The hearing authority will ask the respondent to briefly introduce themselves and explain why they have requested the hearing.

iii. Presentation of Information

1. Following the respondent's introduction, a staff member from either CSSR or housing and residence life will provide the hearing authority with a detailed summary of the incident and, if applicable, any subsequent investigation.
2. If there is a complainant, the complainant will then have an opportunity to provide the hearing authority with a summary of their role and perspective on the incident. The hearing authority may question the complainant at this time, followed by the staff member from CSSR or housing and residence life and the respondent (if applicable).
3. The hearing authority will then ask the respondent to describe their involvement in the matter at hand as it pertains to the charges being considered in the hearing. The hearing authority may question the respondent at this time, followed by the staff member from CSSR or housing and residence life and the complainant (if applicable).
4. The staff member from CSSR or housing and residence life will then present any relevant witnesses or documentary information to the hearing authority. The staff member from CSSR or housing and residence life may ask questions of any witness presented. The hearing authority, respondent, and complainant (if applicable) will each have the opportunity to ask questions regarding the information presented.
5. The complainant (if applicable) will then present any relevant witnesses or documentary information to the hearing authority. The complainant may ask questions of any witness presented. The hearing authority, respondent, and staff member will each have the opportunity to ask questions regarding the information presented.
6. The respondent will then present any relevant witnesses or documentary information to the hearing authority. The respondent may ask questions of any witness presented. The hearing authority, complainant (if applicable), and staff member will each have the opportunity to ask questions regarding the information presented.
7. The staff member from CSSR or housing and residence life will have an opportunity to make a summary statement.
8. The complainant, if applicable, will have an opportunity to make a summary statement.
9. The respondent will have an opportunity to make a summary statement.

iv. Deliberation and Finding

1. The hearing authority will go into closed session to determine by the preponderance of evidence whether the respondent will be found in violation of the charges pending in this matter. University hearing boards determine findings by majority vote.
2. The hearing will re-convene for the announcement of the finding. If the respondent is not found responsible for the violation, the case will be dismissed. If the respondent is found responsible for a violation of one or more of the pending charges, the hearing will proceed to sanctioning.

v. Sanctioning

1. The respondent will be offered an opportunity to speak on their own behalf and to present character witnesses or written references for consideration in determining a sanction.
2. The complainant, if applicable and present, will be given the opportunity to present a verbal impact statement. If there is a complainant who has chosen not to attend the hearing but has provided an impact statement to the staff member from CSSR or housing and residence life, it will be given to and read aloud by the hearing authority. Any impact statement must be presented to the hearing authority only after a finding of violation has been made in the matter.
3. The staff member from CSSR or housing and residence life will give an overview of the respondent's disciplinary history, if any. The respondent will be given the opportunity to respond to the overview.
4. If the respondent was presented with a possible sanction during their community standards conference, the staff member from CSSR or housing and residence life will share that proposed sanction with the hearing authority.
5. The hearing authority will consider the following in determining a sanction:
 - a. statements and evidence presented at the hearing;
 - b. seriousness of the violation;
 - c. the complainant's oral or written statement of impact;
 - d. the respondent's character information;
 - e. prior disciplinary record of the respondent; and
 - f. disciplinary precedent.
6. The staff member from CSSR or housing and residence life will be provided an opportunity to ask the respondent questions relevant to sanctioning.
7. The hearing authority may ask follow up questions of the staff member from CSSR or housing and residence life or the respondent regarding any of the above information.
8. The hearing authority will go into closed session to determine a sanction.
9. The hearing will reconvene for the announcement of the sanction.
 - a. In university hearing board hearings, the sanction is recommended to the dean of students or designee, who will make the final decision. While normally the Board's recommendation will be the sanction imposed, the dean of students or designee may impose a different sanction. The dean of students or designee will send the student written notification of the decision.

b. In administrative hearings, the sanction is imposed by the hearing officer. The hearing officer will send the student written notification of the decision.

c. Hearing Procedures for Sanction-Only Hearings

Items i-iii will generally proceed in the order listed below, though the hearing authority reserves the right to adjust the order as appropriate or necessary.

i. Guidelines

1. The hearing authority will explain the respondent's rights and responsibilities, and, if applicable, the complainant's rights and responsibilities.
2. The hearing authority (in conjunction with the board advisor, if applicable), is responsible for assuring that these rights as well as the process described in this Part are adhered to during the hearing.
3. The respondent or the complainant may ask for the removal of a hearing authority by providing written or verbal evidence of bias.
 - a.* In cases before a hearing board, the charge of bias is made to the chairperson who will determine whether it is valid. If the charge of bias is against the chairperson, the hearing board advisor shall decide whether it is valid. If bias is found, the hearing will be rescheduled.
 - b.* In an administrative hearing, the charge of bias against the hearing authority can be made to the director of CSSR, prior to the hearing. The director will decide if the charge is valid. If bias is found, the director will assign a new hearing authority to conduct the hearing.
4. The hearing authority may ask questions of any party at any time throughout the hearing.
5. The hearing authority is responsible for determining the relevancy of questions asked during a hearing. The hearing authority may deem certain questions irrelevant and not allow them to be asked. In university hearing board hearings, the hearing board advisor may assist the hearing chair in those determinations.
6. The hearing authority may exclude persons from the hearing if they are disruptive, or postpone the hearing because of disruptive behavior of participants or observers.

ii. Introduction

1. Each party in the room will introduce themselves and explain their role in the hearing.
2. The hearing authority will review the charges against the respondent and ask the respondent to affirm that they are accepting responsibility for those charges.
3. The hearing authority will ask the respondent to briefly introduce themselves and explain why they have requested this sanction-only hearing.

iii. Presentation of Information

1. Following the respondent's introduction, a staff member from either CSSR or housing and residence life will provide the hearing authority with a detailed summary of the incident and, if applicable, any subsequent investigation.

2. If there is a complainant, the complainant will then have an opportunity to comment on the summary given by the staff member.
3. The respondent will then have an opportunity to comment on the summary given by the staff member.
4. The hearing authority will then have the opportunity to ask the respondent (and complainant, if applicable), any questions they may have about the incident.

iv. Sanctioning

1. The hearing authority will then transition the hearing to the sanctioning stage.
2. The respondent will be offered an opportunity to speak on their own behalf and to present character witnesses or written references for consideration in determining a sanction.
3. The complainant, if applicable and present, will be given the opportunity to present a verbal impact statement. If there is a complainant who has chosen not to attend the hearing but has provided an impact statement to the staff member from CSSR or housing and residence life, it will be given to and read aloud by the hearing authority. Any impact statement must be presented to the hearing authority only after a finding of violation has been made in the matter.
4. The staff member from CSSR or housing and residence life will give an overview of the respondent's disciplinary history, if any. The respondent will be given the opportunity to respond to the overview.
5. If the respondent was presented with a possible sanction during their community standards conference, the staff member from CSSR or housing and residence life will share that proposed sanction with the hearing authority.
6. The hearing authority will consider the following in determining a sanction:
 - a. statements and evidence presented at the hearing;
 - b. seriousness of the violation;
 - c. the complainant's oral or written statement of impact;
 - d. the respondent's character information;
 - e. prior disciplinary record of the respondent; and
 - f. disciplinary precedent.
7. The staff member from CSSR or housing and residence life will be provided an opportunity to ask the respondent questions relevant to sanctioning.
8. The hearing authority may ask follow up questions of the staff member from CSSR or housing and residence life or the respondent regarding any of the above information.
9. The hearing authority will go into closed session to determine a sanction.
10. The hearing will reconvene for the announcement of the sanction.
 - a. In sanction-only hearings conducted by the university hearing board, the sanction is recommended to the dean of students or designee, who will make the final decision. While normally the Board's recommendation will be the sanction imposed, the dean of students or designee may impose a different sanction. The dean of students or designee will send the student written notification of the decision.

- ii. Disciplinary suspension of a student organization or student group is a temporary revocation of University recognition. While an organization or group is suspended, it may not use University resources or participate as an organization in any University activities or events. A student organization suspension will not exceed five years. Student organizations or groups that have been suspended from the university must petition for reenrollment through the director of the office of community standards and student responsibility. Reenrollment may be granted, with further probationary status, at the discretion of the director.
- d. **Disciplinary Expulsion** – Sanction which permanently removes the student from their academic program and separates the student from the University without the opportunity to graduate or reenroll in the future. A student under disciplinary expulsion may not be present on university premises unless authorized in writing in advance under conditions approved by the director of the office of community standards and student responsibility. Expulsion will be noted on the student's academic transcript.

Disciplinary expulsion of a student organization or student group is the permanent revocation of University recognition of that organization.

2. **Conditions of Sanction** – In conjunction with a sanction, a student found to have been in violation of prohibited conduct may be assigned conditions of sanction that are educational in nature and reflect the nature of the violation. Conditions of sanction include but are not limited to, reflective papers, seminars, community restitution, access restriction, revocation of rights and privileges, fines/fees, etc. If a student has any outstanding conditions of sanction at the conclusion of disciplinary probation or suspension, that student's disciplinary probation or suspension status will remain in effect pending the completion of the conditions of sanction. Additionally, failure to complete conditions of sanction by the deadline given will result in the placement of a disciplinary hold on the student's academic records.

Part G: Student Rights & Responsibilities

The following rights and responsibilities apply to those involved in a matter being addressed by the community standards process. The rights and options available to parties involved in a matter being addressed through the sexual harassment and other sexual misconduct process are described in Appendix B.

1. **Rights of Respondent** – All respondents in the community standards process have the following rights:
 - a. Written notice of the charge(s) made against them and the basis of the allegation that led to the charge(s).
 - b. In matters that could result in a sanction of suspension or expulsion, the above-mentioned notification will alert the respondent to the possible severity of the outcome.
 - c. The right to an advisor, as defined in Part C.
 - d. The right to a support person, as defined in Part C.
 - e. To request reasonable accommodations due to disability as outlined in Part (G)(3).

- f. Reasonable access to inspect and review their own case file, which includes all information that would be used during the community standards process, to the extent permitted by confidentiality laws.
- g. Explanation of the resolution options available to them through the community standards process.
- h. To be presumed not responsible for a violation of prohibited conduct until found in violation by a preponderance of the evidence.
- i. To speak or not speak on their own behalf.
- j. The opportunity to respond to information used as part of the decision-making process.
- k. To deny responsibility for the charge(s) facing them and request a hearing.
- l. To question any witnesses that participate as part of a hearing.
- m. The right to appeal, as described in Part H.
- n. To waive any of the above stated rights provided that the waiver is made freely and in writing.

2. Rights of the Complainant – All complainants in the community standards process have the following rights:

- a. To pursue criminal or civil charges where a legal case exists (without University assistance).
- b. Explanation of the resolution options available to them through the community standards process.
- c. To be free from harassment and intimidation from respondents and others as they engage this process.
- d. The right to an advisor, as defined in Part C.
- e. The right to a support person, as defined in Part C.
- f. To request reasonable accommodations due to disability as outlined in Part (G)(3).
- g. To provide information for consideration during the community standards process, and to know the results of the process to the extent allowed under federal laws and university policies.
- h. The opportunity to appear at any hearing that may take place in order to provide relevant information.
- i. The opportunity to question any witnesses that participate as part of a hearing.
- j. The opportunity to submit a written impact statement for use in a hearing, even if the complainant chooses not to attend the hearing

3. Responsibilities of Respondents, Complainants, and Witnesses – All respondents, complainants, and witnesses in the community standards process have the following responsibilities:

- a. To be honest and forthright in all information they provide during the community standards process. Presenting false and misleading information during this process is a violation of prohibited conduct as outlined in Part D.
- b. To attend all required meetings, conferences, or hearings, as scheduled, unless alternate arrangements are made in advance.
- c. To refrain from disruption of the hearing process. Disruption of this process is a violation of prohibited conduct as outlined in Part D.
- d. Complainants and respondents have the responsibility to prepare and present their entire case as well as secure the presence of any witnesses who will speak on their behalf.

- 4. Reasonable Accommodation for Students with Disabilities** – Any student with a disability involved in this process has the right to request reasonable accommodation in order to ensure their full and equal participation in this process. Students wishing to request reasonable accommodations should make those requests directly to the office of Student Accessibility Services (SAS). Students do not have to disclose information about the complaint or charge to SAS to request reasonable accommodation except to the extent that it may assist in the determination of reasonable accommodations. Accommodations are determined on an individual basis by SAS staff and implemented in consultation with CSSR and ECRC (if applicable). Examples of reasonable accommodation include but are not limited to sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, or assistance with transcribing questions during interviews or hearings. Students are responsible for requesting accommodations in a timely manner; failure to do so may result in a delay in the process.
- Student Accessibility Services, Baker University Center, 348 740-593-2620, disabilities@ohio.edu <http://www.ohio.edu/uc/sas>

Part H: Appeal Process

The following appeal processes apply to those involved in matters being addressed by the community standards process. The appeal process available to parties in matters being addressed through the sexual harassment and other sexual misconduct process may be found in Appendix B.

1. A respondent that has accepted responsibility for, or was found in violation of prohibited conduct through the community standards process, may appeal the finding(s) and condition(s) of sanctions imposed within five business days after the receipt of written notification detailing the decision of the case. Upon reasonable request, the five-business day deadline may be extended by the director of the office of community standards and student responsibility.
2. In the appeal, the respondent must state the reason(s) for the appeal, the supporting facts, and the requested solution. An appeal is not a rehearing of the matter and cannot be filed simply because the student disagrees with the outcome. An appeal may only be submitted for one or more of the following reasons:
 - a. The sanctions and/or conditions of sanctions are extraordinarily disproportionate to the violation(s); and/or
 - b. A procedural defect occurred that significantly impacted that outcome of the hearing; and/or
 - c. Discovery of new and significant information that could have affected the outcome of the hearing and that was not known, or could not reasonably have been discovered and/or presented at the time of the hearing.
3. University Appeal Board
 - a. All appeals will be heard by the university appeal board. The appeal board will meet in a closed session, within a reasonable period of time, and will either grant or deny the appeal by a majority vote.
 - b. If the student alleges that the sanction was extraordinarily disproportionate to the violation and the appeal board finds the sanctions extraordinarily disproportionate, the appeal board may reduce the sanction.
 - c. In considering appeals based on a procedural defect or the presence of new information, if the appeal board finds that there was a defect in the procedure or that new information was presented which was sufficiently substantial to the outcome, the appeal board will order a new hearing or remand the matter to the original hearing authority as appropriate.
 - d. The respondent will be notified of the outcome of their appeal in writing by the director of the Office of community standards and student responsibility.
4. Vice Presidential Appeal

- a. The respondent may request the vice president for student affairs or designee review a university appeal board decision if the university appeal board denies the appeal.
- b. An appeal to the vice president for student affairs or designee must be submitted to the office of the vice president for student affairs within five business days after the receipt of written notification of the appeal board decision.
- c. The appeal is limited to the grounds of the original appeal to the University Appeal Board, except in cases where the respondent is appealing on the basis of new evidence.
- d. If the student alleges that the sanction was extraordinarily disproportionate to the violation and the vice president for student affairs or designee finds the sanctions to be extraordinarily disproportionate, the vice president for student affairs or designee may reduce the sanction.
- e. In considering appeals based on a procedural defect or new information being presented, and the vice president for student affairs or designee finds that there was a defect in the procedure or that new information was presented which was sufficiently substantial to the outcome, the vice president for student affairs, or designee will order a new hearing or remand the matter to the original hearing authority as appropriate.
- f. The respondent will be notified of the outcome of their appeal in writing by the vice president for student affairs or designee within a reasonable period of time.
- g. The decision of the vice president for student affairs or designee is the final decision in the matter.

Part I: Interim Measures, Interim Suspension, and State of Emergency

The section addresses interim measures, interim suspension, and State of Emergency procedures for the community standards process. For supportive measures and emergency removal under the sexual harassment and other sexual misconduct process, refer to Appendix B.

1. Interim Measures

- a. When the alleged actions of a student threaten the good order or safety of the university, interim measures may be put into place. Interim measures are administrative directives that are intended to insure the safety of the university and prevent a situation from escalating. Interim measures may be made at any point after a referral is received and may include, but are not limited to:
 - i. Administrative directives for no contact;
 - ii. Temporary or permanent re-assignment of university housing; and/or
 - iii. Restriction of access to particular areas of campus.
- b. CSSR will make decisions on interim measures after appropriate consultation. Professional staff in housing and residence life may initiate an immediate residential move in the case of allegations of sexual misconduct, violence, or threats of violence. They may also issue temporary administrative directives for no contact under the same circumstances. Housing and residence life will notify CSSR in writing of any interim measures they initiate as soon as possible, but no later than the next business day. All interim measures described above will be documented in writing.

2. Interim Suspension or Interim Suspension of Housing

- a. When the behavior of a student disrupts the good order of the university or poses a risk to the safety of the campus, the university may place the student on an interim suspension. This action immediately suspends the student from university premises and activities.

- b. The interim suspension will be decided by the dean of students (or designee), in consultation with appropriate university offices. The interim suspension will be confirmed in writing and remain in effect until such time as the alleged violations of the "Student Code of Conduct" are resolved. The student will be notified of the interim suspension by the director of community standards and student responsibility (or designee). Within three business days of the notification of the interim suspension, the student may request a review of the interim suspension. The request for review must be submitted in writing and include all relevant documentation the student wishes to be considered as part of the review. The purpose of the review is to determine only if the student poses an on-going threat. The vice president for student affairs (or designee) will then determine if the interim suspension remains in effect, is modified, or is rescinded. For instances involving allegations of sexual misconduct, relationship violence, or stalking (as defined in University Policy 03.004), the vice president or designee will make their decision in consultation with the Title IX coordinator. The decision on the review will be provided to the student in writing and is final.
 - c. The student may request an extension of the deadline to submit a request for review in extreme circumstances, such as hospitalization or incarceration. Students may be required to provide documentation related to their request for an extension.
 - d. The outcome of the review will not impact the pending disciplinary process. If the vice president for student affairs (or designee) upholds the interim suspension, the decision will remain in effect until the pending charges through the office of community standards and student responsibility have been resolved. The student will be notified of the decision of the vice president for student affairs (or designee) in writing within a reasonable time frame.
 - e. If the final decision of the community standards process is to suspend or expel the student, the sanction will take effect from the date of the interim suspension. If the decision is a reprimand or disciplinary probation, or if the student is found not to be in violation of the charges, for purposes of the record, the interim suspension will be deemed not to have occurred. The student has the right to appeal the final decision in accordance with Part H.
- 3. State of Emergency**
- a. Pursuant to Section 3345.26 of the Revised Code, the board of trustees or president of a college or university which receives any state funds in support thereof, may declare a state of emergency when there is a clear and present danger or the orderly conduct of lawful activities at such college or university through riot, mob action or other substantial disorder, and may do one or more of the following, as are necessary to preserve order and discipline at such college or university during such emergency:
 - i. Limit access to university property and facilities by any person or persons;
 - ii. Impose a curfew;
 - iii. Restrict the right of assembly by groups of five or more persons;
 - iv. Provide reasonable measures to enforce limitations of access, a curfew and restrictions on the rights of assembly imposed pursuant to this part.
 - b. Notice of action taken pursuant to Part (I)(3)(a) shall be posted or published in such manner as is reasonably calculated to reach all persons affected.
 - c. Parts (I)(3)(a) and (I)(3)(b) of this document shall not be construed to limit the authority of the board of trustees, president or other proper official of a college or university to impose reasonable restrictions on use of and access to, and the hours and use and access to university property and facilities, for purpose of regulating the proper operation of such university, and regardless of whether any emergency exists.

Part J: “Student Code of Conduct” review process

1. Timeline
 - a. The full “Student Code of Conduct” will undergo a formal review process every two years. The review will take place under the direction of the director of the Office of community standards and student responsibility in collaboration with the “Student Code of Conduct”: Review & Standards Committee.
 - b. Should changes to the “Student Code of Conduct” be necessary for the purposes of complying with local, state, or Federal law, or as deemed necessary by the student code of conduct: review and standards committee, changes may be made outside of the two- year cycle.
 - c. The appendices are independent of the “Student Code of Conduct” and are not part of the formal review process. For those appendices that require periodic review, the information for that process is listed in that appendix.
2. Proposing Changes to the “Student Code of Conduct”
 - a. Any member of the Ohio university community may propose amendments to the “Student Code of Conduct”. Proposed amendments shall be reviewed by the student code of conduct: review and standards committee for possible consideration.
3. Approval Process
 - a. All proposed changes to the “Student Code of Conduct” must be reviewed and approved by the student code of conduct: review and standards committee. Those changes will be submitted to the vice president for student affairs for consideration.
 - b. Changes to “Student Code of Conduct” procedure (Parts C, E, G, H, and K) are subject to approval by the vice president for student affairs before implementation.
 - c. Changes to “Student Code of Conduct” policies (Parts A, B, D, F, I, and J) are subject to approval by the president and formal action by the board of trustees prior to implementation.

Part K: Acknowledgements

Parts of the Ohio university “Student Code of Conduct” are adapted from the national center for higher education risk management (NCHERM) group “Model Developmental Code of Student Conduct” and are used here with permission. Additionally, the office of community standards and student responsibility and the student code of conduct: review and standards committee wishes to acknowledge the following for their example and assistance in crafting this code of conduct: North Carolina state university; old dominion university; plagiarism.org - <http://www.plagiarism.org/plagiarism-101/what-is-plagiarism>; Ohio state university; university of central Florida; university of Florida; university of Texas at Austin; wright state university. This document has been formatted in order to comply with the fourth edition of the “Rule Drafting Manual” by the Ohio legislative service commission.

Appendix A

Ohio Revised Code Part 3333.38 (House Bill 95)

A. Pursuant to Ohio Revised Code Section 3333.38(C), Ohio university must immediately dismiss an individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for a violation of Ohio Revised Code Section 2917.02 (aggravated riot) or Ohio Revised Code Section 2917.03 (riot). Pursuant to Ohio Revised Code Section 3333.38(B), an individual who is convicted of, pleads guilty to, or adjudicated a delinquent child for any of the following offenses shall be ineligible to receive any student financial assistance supported by state funds for two calendar years from the time the individual applies for such assistance:

1. a violation of Ohio Revised Code Section 2917.02 (aggravated riot) or Ohio Revised Code Section 2917.03 (riot),
2. a violation of Ohio Revised Code Section 2917.04 (failure to disperse) that is a misdemeanor of the fourth degree,
3. a violation of Ohio Revised Code Section 2917.13 (misconduct at emergency) that is a misdemeanor of the fourth or first degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of Ohio Revised Code Section 2917.11 (disorderly conduct).

B. The student financial assistance programs supported by state funds includes any post-secondary student financial assistance supported by state funds, including assistance granted under Ohio Revised Code Section:

- 3315.33 Ohio Scholarship Fund for Teacher Trainees
- 3333.12 Ohio Instructional Grant Program and Part-time Ohio Instructional Grant Program
- 3333.21 Ohio Academic Scholarship Program
- 3333.26 Tuition Waiver for Child or Spouse of Public Service Officer Killed in Line of Duty
- 3333.27 Student Choice Grant Program
- 3333.28 Nurse Education Assistance Program
- 3333.29 Student Workforce Development Grant Program
- 3333.372 Ohio Outstanding Scholarship and Ohio Priority Needs Fellowship
- 5910.03 Scholarship for Children of Deceased or Disabled Veterans of the Armed Services of the United States
- 5910.032 Children of Persons Declared Prisoner of War or Missing in Action
- 5919.34 National Guard Scholarship Program



OHIO
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Sexual Harassment and Other Sexual Misconduct Grievance Process
(applies to investigations initiated on or after August 14, 2020)

This process will be used to adjudicate alleged violations of Ohio University Policy 03.004, which provides the rationale, basis, scope, and jurisdiction of the policy, as well as relevant definitions. Further, Policy 03.004 details behaviors prohibited by the policy; gives information about reporting incidents of sexual harassment, other sexual misconduct, and retaliation; and provides other important information regarding Ohio University's response to these prohibited behaviors. Ohio University Policy 03.004 may be found at <https://www.ohio.edu/policy/03-004>.

This Sexual Harassment and Other Sexual Misconduct Grievance Process document describes the process for investigating and adjudicating reports of alleged sexual harassment, other sexual misconduct, and retaliation. This process provides for a prompt, fair, and impartial investigation and resolution of allegations made against students, student organizations and groups, faculty members, administrators, staff members, and trustees and officers of Ohio University. The Title IX Coordinator and the staff in University Equity and Civil Rights Compliance (ECRC) are responsible for the management and implementation of this process.

1. Definitions

For the purposes of this process, the following definitions apply:

Advisor – A person chosen by a party (the complainant or respondent) to accompany the party to meetings related to the grievance process, to advise the party on that process, and to question the other party and witnesses at the hearing, if any. A party may have one advisor with them at meetings, interviews, and the hearing, if any, although the advisor does not have to be the same person at each.

The advisor may assist the party by helping to prepare materials, draft questions, and confer with the party during meetings and hearings, as long as this does not unreasonably disrupt or delay the process. The advisor also represents the party by asking questions of the other party and witnesses at the hearing; however, the advisor may not make statements on behalf of the party. The advisor may be anyone of the student's choosing, including an attorney. If a party does not have an advisor to question the other party and witnesses at the hearing, one will be appointed to do so by the institution. See Appendix B for additional information regarding advisors.

Appeal Officer – Those who have decision-making authority when dismissals under Title IX or findings resulting from a hearing within the grievance process are appealed by one or more of the parties.

Business Day – Weekdays (Monday-Friday) when Ohio University offices are open for normal operations.

Complainant – An individual who is alleged to be the victim of conduct that could constitute sexual harassment, other sexual misconduct, or retaliation under University Policy 03.004. There may be more than one complainant for an incident.

Education Program or Activity – Locations, events, or circumstances, including employment, where the University exercises substantial control over both the respondent and the context in which sexual harassment occurs and includes any building owned or controlled by a student organization that is officially recognized by the University.

Employee – A person who performs work for the University and is paid for that work. For purposes of University Policy 03.004, employees include paid faculty, administrators, staff, graduate research and teaching assistants, and all student employees.

Final Determination – The final outcome of the Sexual Harassment and Other Sexual Misconduct Grievance Process.

Finding – A conclusion by the standard of proof that the alleged conduct did or did not violate policy.

Formal Complaint – A document submitted by a complainant or signed by the Title IX Coordinator alleging behavior prohibited by University Policy 03.004 (sexual harassment, other sexual misconduct, or retaliation) against a respondent and requesting that the University investigate the allegation.

Grievance Process – A method of resolution utilized to address allegations of sexual harassment, other sexual misconduct, and retaliation as defined by University Policy 03.004: Sexual Harassment and Other Sexual Misconduct.

Grievance Process Pool – Investigators, hearing panelists, appeal officers, and university-appointed advisors who may perform any or all of these roles, though not at the same time or with respect to the same case.

Hearing Panelist – Those who have decision-making and sanctioning authority when allegations proceed to a hearing within the grievance process. Three hearing panelists will be chosen from the grievance process pool to serve on the panel for each hearing.

Investigator – The person or persons charged with gathering information about an alleged violation of University Policy 03.004 and compiling this information into an investigative report and file of directly-related evidence. Two investigators will be assigned to each case and will conduct a prompt, thorough, and impartial investigation.

Notice – When an employee, student, or third-party informs the Title IX Coordinator or any other official with authority of an alleged incident of sexual harassment, other sexual misconduct, or retaliation.

Parties – The complainant(s) and respondent(s) in a matter, collectively.

Preponderance of the Evidence – Standard of proof used by the hearing panel. Preponderance of the evidence means that the statements and information presented in the matter indicate to a reasonable person that it is more likely than not that the respondent committed a violation.

Related Evidence – Evidence directly connected to a formal complaint, but that is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon in the investigative report.

Relevant Evidence – Evidence that tends to prove or disprove an issue in a formal complaint.

Report – Information provided to the Title IX Coordinator indicating that sexual harassment, other sexual misconduct, or retaliation may have occurred.

Remedies – Post-finding actions directed to the complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's education program or activities, including employment.

Respondent – An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, other sexual misconduct, or retaliation under University Policy 03.004. Student organizations or groups may also be respondents in this process and will be represented by the president, director, or other organizational or group leader. There may be more than one respondent for an incident. It is presumed that a respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Sanction – A consequence imposed by the University on a respondent who is found to have violated University Policy 03.004: Sexual Harassment and Other Sexual Misconduct.

Support Person – A person chosen by a party (the complainant or respondent) to provide support to them at meetings and interviews with investigators and other ECRC staff. The parties may bring up to two support people at a time with them to meetings and interviews, in addition to the party's advisor. These support people do not have to be the same people every time. Support people do not actively participate in the process but can be present at meetings and interviews to provide support to the party. Support people do not attend the hearing, if any, although the party may be accompanied at the hearing by an advisor of their choice. A support person cannot be a witness in the matter in question.

Supportive Measures – Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or to deter sexual harassment, other sexual misconduct, and retaliation.

Title IX Coordinator – The official designated by Ohio University to ensure compliance with Title IX and to oversee implementation of University Policy 03.004. References to the Title IX Coordinator throughout this process may also encompass a designee of the Coordinator for specific tasks.

Witness – Person who is requested to participate in the grievance process because they may have information about the alleged violation. Names of potential witnesses may be supplied by the complainant, respondent, or others with knowledge of the matter. All witnesses are considered to be witnesses called by the University.

2. Reports of Potential Violations

Reports of sexual harassment, other sexual misconduct, or retaliation may be submitted by the complainant, or a third party may file a report on behalf of a person whom they believe has been adversely affected by conduct prohibited by this policy. Per Ohio University Policy 03.004, any employee with a duty to report must immediately report violations of this policy to the Title IX Coordinator if they receive a complaint of a violation or observe or learn of conduct that is reasonably believed to be in violation of this policy.

Reports may be submitted online using the Sexual Harassment and Other Sexual Misconduct Reporting Form by clicking on Report Sexual Misconduct at <https://www.ohio.edu/equity-civil-rights>. Reports submitted through this on-line form are routed immediately to the Title IX Coordinator.

Reports may also be filed with the Title IX Coordinator by mail, phone, or email. A report may be submitted at any time (including during non-business hours) using the contact information below. Reports may also be made in person at the ECRC office on business days when a staff member is available.

Kerri Griffin
Director of Equity and Civil Rights Compliance and Title IX Coordinator
006 Lindley Hall
Ohio University
Athens, OH 45701
740-593-9140 (phone)
equity@ohio.edu or titleIX@ohio.edu

Anonymous reports may be submitted, and if the report contains information about conduct that would constitute a violation of this policy, ECRC staff will attempt to address the reported concerns; however, their ability to investigate or resolve anonymous complaints will likely be limited. Further, ECRC tries to provide supportive measures to all complainants, which is impossible with an anonymous report.

If a complainant is identified in the report, ECRC will attempt to contact the complainant to offer supportive measures and to ensure the complainant knows all of the options available to them, including making a police report and submitting a formal complaint if applicable and desired.

Reporting carries no obligation for complainants to submit a formal complaint, and Ohio University respects complainants' wishes regarding formal action unless there is a compelling threat to health or safety.

Under Ohio law, ECRC is required to notify the appropriate law enforcement agency if the report indicates that sexual violence and/or another felony may have been committed. While ECRC is obligated to contact law enforcement, complainants are not required to speak with law enforcement officers. ECRC will also work with the Ohio University Police Department to assess if a timely warning needs to be issued to the campus community in relation to the report. Complainants are encouraged to make a report to law enforcement authorities, even if they decide not to make a report to the Title IX Coordinator. Staff members in ECRC are available to assist students in contacting the appropriate law enforcement agency.

Additionally, if any party involved in alleged sexual misconduct is a minor, University personnel will notify Job and Family Services or other appropriate agencies, as required by Ohio law. Further, ECRC will collect and share de-identified statistical information as required by the Clery Act.

3. Confidential Resources

Certain campus and local resources may maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediate threat or danger, in cases of abuse of certain populations (e.g., minors), or when required to disclose by law or court order. These resources may offer options and resources without any obligation to inform a campus official or law enforcement authorities.

- Ohio University confidential resources include:
 - Licensed professionals and staff at Counseling and Psychological Services,
 - Healthcare providers and staff at Campus Care,
 - Advocates at the Survivor Advocacy Program, and
 - Licensed professional counselors available through the Employee Assistance Program, and
 - Licensed professionals and students registered for practice under a licensed psychologist at the Psychology and Social Work Clinic.

- Off-campus confidential resources include:
 - Licensed professional counselors and other medical providers,
 - Rape crisis counselors,
 - Domestic violence resources,
 - Local or state assistance agencies,
 - Clergy/Chaplains, and
 - Attorneys.

Information regarding support resources, many of which are confidential, may be found on the Resources page on the ECRC website (www.ohio.edu/equity-civil-rights).

4. Reasonable Accommodation for Persons with Disabilities

Any persons living with a disability who are involved in the Sexual Harassment and Other Sexual Misconduct Grievance Process have the right to request reasonable accommodation in order to ensure their full and equal participation. Students should make requests to the Office of Student Accessibility Services (SAS), and employees should contact the Office for University Accessibility (OUA). Parties do not have to disclose information about the complaint or charge(s) to request reasonable accommodation, except to the extent that it may assist in the determination of specific accommodations.

Accommodations are determined on an individual basis by SAS or OUA and are implemented in consultation with the case investigator(s). Examples of reasonable accommodations include sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, or assistance with transcribing questions during interviews or hearings.

5. Official Method of Communication

Formal correspondence to parties, witnesses, and others engaged in this process will be sent via e-mail to the person's Ohio University email address or to the email address provided by a participant who is not a member of the Ohio University community. At the discretion of the Title IX Coordinator, an alternate means of delivering formal correspondence may be utilized if circumstances warrant. Once emailed or otherwise sent or given in person, correspondence will be presumptively delivered.

6. Complainant Initial Meeting

Staff from ECRC will contact the complainant as soon as possible upon receipt of a report of alleged sexual harassment, other sexual misconduct, or retaliation to set up an initial meeting. The complainant may be accompanied at the initial meeting by an advisor of their choice and up to two support people as defined in Section 1.

The following information will be discussed with the complainant if applicable based on the nature of the report and the status of the complainant:

- The complainant's immediate safety and well-being;
- The name and contact information for the Title IX Coordinator;
- The rights of the complainant and respondent (see Appendix A), including the right to be accompanied at all meetings and the hearing, if applicable, by an advisor of their choice (see Appendix B);
- Medical, mental health, law enforcement, and other resources available both on campus and in the surrounding community;
- Possible supportive measures;

- The obligation of ECRC to notify the appropriate law enforcement agency if the report indicates that sexual violence and/or another felony may have been committed. While ECRC is obligated to contact law enforcement, complainants are not required to speak with the police unless they so choose;
- The process for filing a formal complaint, the possibility that a formal complaint could be signed by the Title IX Coordinator instead of the complainant, and the factors that would be taken into consideration before such a step was taken;
- The process for investigating and resolving alleged violations of sexual harassment, other sexual misconduct, and retaliation;
- The general timeline of the grievance process;
- The importance of preserving potential evidence;
- The standard of evidence applied to determine a violation;
- The possible sanctions and remedies that may be applied if the respondent is found in violation;
- The Ohio University policy prohibiting retaliation due to any person's participation or non-participation in the Sexual Harassment and Other Sexual Misconduct Grievance Process; and
- Amnesty available to students participating in the grievance process for alcohol or drug-related violations of the Student Code of Conduct.

The ECRC staff member may also verify the information received in the initial report with the complainant. If the complainant wishes to submit a formal complaint, the ECRC staff member will provide assistance, if desired.

Should the complainant not respond to ECRC's initial attempt to contact them, ECRC will make two additional attempts. Should the complainant not respond after three attempts have been made, ECRC will send the complainant written acknowledgment of their non-participation and notice of the next steps that will be taken. Should the complainant later choose to participate, they may re-engage at any point, keeping in mind that delays may limit access to evidence or present issues with respect to the status and availability of the parties and/or witnesses.

7. Provision of Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment or to deter sexual harassment, other sexual misconduct, and retaliation.

Upon receipt of a report alleging a violation of this policy, information regarding the availability of supportive measures will be sent to the complainant, along with a request for the complainant to attend an initial meeting with an ECRC staff member. At the initial meeting, the ECRC staff member will discuss the availability of supportive measures and consider the complainant's wishes regarding what supportive measures may be implemented. The ECRC staff member will also explain the process for

filing a formal complaint, including that supportive measures are available with or without the filing of a formal complaint.

Ohio University will act to minimize the academic and/or occupational impact on the parties as much as possible and will maintain the privacy of supportive measures to the extent that it does not impair the provision of the supportive measures.

Supportive measures may include, but are not limited to:

- Referral to campus and community counseling, medical, and/or other healthcare services, including the employee assistance program, as appropriate;
- Implementing mutual no contact orders between the parties*;
- Altering campus housing assignment(s);
- Altering work arrangements for employees, including student employees;
- Academic support, extensions of deadlines, or other course/program-related adjustments;
- Class schedule modifications, withdrawals, or leaves of absence;
- Safety planning;
- Providing campus safety escorts and/or transportation accommodations;
- Visa and immigration assistance;
- Student financial aid counseling;
- Timely warnings;
- Increased security and monitoring of certain areas of campus;
- Education to the campus community or community subgroup(s); and
- Any other actions deemed appropriate by the Title IX Coordinator.

If a party procures a restraining order or similar order from a court, the party is encouraged to notify OUPD of the order so that OUPD can assist, as needed, with enforcement of the order.

* Violations of no contact orders will be referred to the appropriate student or employee conduct process for enforcement.

8. Emergency Removal and Administrative Leave

Under specific circumstances, Ohio University may remove a student respondent from the University's education program or activity, in part or entirely, on an emergency basis. Before an emergency removal is enacted, the Title IX Coordinator conducts an individualized safety and risk analysis. The Title IX Coordinator must determine that an immediate threat to the physical health and safety of any student or other individual arising from the allegations of sexual harassment or other sexual misconduct justifies removal and provide the respondent with notice of the emergency removal and an opportunity to challenge the decision immediately following the removal. See Appendix C for a full description of the process for emergency removal of a student.

If deemed appropriate, Ohio University may place a non-student employee respondent on administrative leave during the completion of the grievance process.

9. Formal Complaint

A formal complaint is a document submitted by a complainant or signed by the Title IX Coordinator alleging behavior prohibited by University Policy 03.004 (sexual harassment, other sexual misconduct, or retaliation) against a respondent and requesting that the University investigate the allegation. When the Title IX Coordinator signs a formal complaint, they are not a complainant or other party in any resulting investigation.

A formal complaint may be submitted to the Title IX Coordinator in person, by mail, by electronic mail, or using the on-line Formal Complaint form. It must contain the complainant's physical or digital signature or otherwise indicate that the complainant is the person submitting the complaint and requesting that the allegations be investigated through the Sexual Harassment and Other Sexual Misconduct Grievance Process.

If a formal complaint is submitted, the respondent is notified of the allegations in the complaint, including the identity of the complainant. Along with other information outlined in Section 20, the notice to the respondent must include a summary of the conduct allegedly constituting a violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct; the date, time, and location of the alleged violation (if known); and the specific policies implicated by the allegations. If these details cannot be determined from the formal complaint, investigators may interview the complainant prior to the respondent being notified of the allegations in order to gather additional information.

While a formal complaint may be submitted at any time and without any prior contact with an ECRC staff member, complainants may want to consider submitting a report and meeting with ECRC staff to learn about supportive measures available to them and options for proceeding before deciding to submit a formal complaint.

10. When a Complainant Does Not Submit a Formal Complaint

If a complainant does not submit a formal complaint, the Title IX Coordinator may decide to sign a formal complaint in lieu of one being submitted by the complainant.

The following factors will be taken into account by the Title IX Coordinator when making this decision:

- The reported use of force during the commission of an alleged violation of sexual harassment or other sexual misconduct;
- The reported use of a weapon during the commission of an alleged violation of sexual harassment or other sexual misconduct;
- Significant physical injury resulting from an alleged violation of sexual harassment or other sexual misconduct;
- The involvement of multiple respondents in the commission of an alleged violation of sexual harassment or other sexual misconduct;
- Prior allegations (substantiated or not) of sexual harassment or other sexual misconduct made against the respondent; and
- Other relevant factors, including but not limited to:
 - The frequency and severity of the alleged behavior,
 - The age of the complainant (for example, if the complainant is a minor), and

- Any position of trust a respondent may hold due to the nature of their employment or other relevant status with the University.

The Title IX Coordinator must also consider the effect that non-participation by the complainant may have on the availability of evidence and Ohio University's ability to pursue the Sexual Harassment and Other Sexual Misconduct Grievance Process fairly and effectively. The Title IX Coordinator has ultimate discretion over whether an investigation will proceed when the complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate the grievance process upon completion of an appropriate assessment.

If the Title IX Coordinator signs a formal complaint, they do not become the complainant. The complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of University Policy 03.004. Under this circumstance, the complainant would receive notice that the grievance process is being initiated and retain all of their rights under the grievance process regardless of their level of participation.

If a formal complaint is not submitted by the complainant or signed by the Title IX Coordinator, the Title IX Coordinator will offer supportive measures to the complainant but will not otherwise pursue formal action. Complainants choosing not to file a formal complaint should be aware that Ohio University's ability to respond to notice and provide some supportive measures may be limited if the complainant does not want to be identified and/or does not want the University to proceed with the grievance process.

Even if a complainant decides not to file a formal complaint, they retain the ability to request an investigation at a later date by submitting a formal complaint at that time, keeping in mind that delays may limit access to evidence or present issues with respect to the status and availability of the parties and/or witnesses.

If another report of sexual harassment or other sexual misconduct is received regarding the same respondent, the Title IX Coordinator will reassess the situation and may choose to sign a formal complaint in the original case in the interest of the safety of the campus community. In this instance, the Title IX Coordinator will attempt to contact the original complainant to discuss the need to move forward with the grievance process. If the complainant is unable to be reached or does not respond after two attempts, the Title IX Coordinator will notify the complainant in writing regarding the change of circumstances before proceeding to use the complainant's name in a formal complaint signed by the Title IX Coordinator.

11. Dismissal of a Formal Complaint under Title IX

If a formal complaint is filed by the complainant or signed by the Title IX Coordinator, the Title IX Coordinator undertakes the following assessment to determine if the alleged violation falls within the scope of Title IX.

As mandated by the 2020 Title IX Regulations, 34 CFR§106.45, a formal complaint, or any allegations therein, must be dismissed under Title IX if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined by Title IX regulations (Offenses 1-6 in University Policy 03.004), even if proved; and/or
2. The conduct did not occur in an education program or activity over which Ohio University exercises substantial control (including buildings or property owned or controlled by recognized student organizations); and/or
3. Ohio University does not exercise substantial control over the respondent; and/or
4. The conduct did not occur against a person in the United States; and/or
5. At the time of the filing of a formal complaint, the complainant is not participating in or attempting to participate in the education program or activity of Ohio University.

A formal complaint, or any allegations therein, may be dismissed under Title IX if, at any time during the investigation or hearing:

1. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein (the complainant may later request to reinstate or refile it); or
2. The respondent is no longer enrolled in or employed by Ohio University; or
3. Specific circumstances prevent Ohio University from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations therein.

Upon any dismissal, the Title IX Coordinator will promptly send written notice of the dismissal under Title IX and the rationale for doing so simultaneously to the parties.

A decision to dismiss is appealable by either party on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding the dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the decision to dismiss.

Either party may appeal the decision to dismiss by submitting a written request for review of the decision. This request must be sent to the Title IX Coordinator within three (3) business days of the notice of the dismissal decision being sent to the parties. If the grounds for appeal include a conflict of interest or demonstrated bias on the part of the Title IX Coordinator, appeals may be submitted to the Deputy Title IX Coordinator, who will administer the remainder of the dismissal appeal process.

If either party submits an appeal, the appeal will be shared with the other party, who will then have three (3) business days to submit a rebuttal to the Title IX Coordinator. At their discretion and for cause, the Title IX Coordinator may elect to extend the deadline for appeals and/or rebuttals. Should this occur, both parties will be notified of the new deadline.

If the grounds for appeal include a claim of procedural irregularity or conflict of interest or bias, the Title IX Coordinator will be provided access to the appeal and be given three (3) business days to submit a response to the portion of the appeal that involves them.

The appeal, rebuttal, and response, if any, and any other relevant information will be reviewed by an appeal officer who is not otherwise involved in the case. The appeal officer will decide if the dismissal under Title IX was appropriate or if the formal complaint or allegations therein will proceed under Title IX. Within three (3) business days, the appeal officer will send written notice of their decision and rationale simultaneously to the parties. If necessary, the appeal officer may take additional time to fully consider the appeal(s) and rebuttal(s). Should this occur, both parties will be notified.

Dismissing a formal complaint, or any allegations therein, under Title IX is a procedural requirement and does not limit Ohio University's authority to address the allegations under University policy and proceed with the grievance process.

If the formal complaint, or any allegations therein, are dismissed under Title IX, the Title IX Coordinator will assess which University policies may apply to the alleged behavior and move the matter forward in the grievance process, if applicable; forward the matter to be addressed under another University policy or process; or close the case, as appropriate.

12. Counterclaims

Counterclaims may be resolved through the same investigation and hearing as the underlying allegation, or the investigation of such claims may take place after resolution of the underlying allegation, at the discretion of the Title IX Coordinator.

13. Amnesty for Violations of Alcohol and Drug Policies under the Student Code of Conduct

In order to encourage reporting of alleged violations of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct and to support candid communication of information, students participating in the grievance process (complainants, respondents, and witnesses) will not be charged with alcohol or drug-related violations of the Student Code of Conduct if they engaged in unlawful or prohibited personal use of alcohol or drugs during the incident when the alleged violation occurred. Amnesty applies only to the personal use of alcohol or drugs during the incident in question and does not extend to other potential violations of the Student Code of Conduct. Amnesty does not apply to the respondent if drugs or alcohol were allegedly used to facilitate a violation of University Policy 03.004.

14. Related Student Code of Conduct Allegations

A violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct by a student, student organization, or student group would also be a violation of the Student Code of Conduct. The Ohio University Student Code of Conduct applies to all students, student organizations, and student groups whether the prohibited behavior occurred on or off campus; therefore, University Policy 03.004 applies to prohibited behavior by students, student organizations, and student groups whether it occurs on campus or off campus. Further, allegations of other conduct prohibited by the Student Code of

Conduct may be investigated and adjudicated through the Sexual Harassment and Other Sexual Misconduct Grievance Process in conjunction with violations of University Policy 03.004.

15. Concurrent Proceedings External to the University

The Sexual Harassment and Other Sexual Misconduct Grievance Process may be initiated when a respondent is charged with behavior that potentially violates both civil/criminal law and University policy, without regard to pending litigation in court or criminal arrest and prosecution. The grievance process may be carried out prior to, simultaneously with, or following criminal or civil proceedings. Determinations made and sanctions imposed under this policy will not be subject to change because criminal charges arising out of the same facts were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

Records regarding students generated as a result of this process are considered education records and governed by the Family Educational Rights and Privacy Act (FERPA) and are therefore subject to release under the order of a lawful subpoena. Further, records generated regarding employees as a result of this process are considered to be employment records and are subject to release under the order of a lawful subpoena and pursuant to Ohio's public records act.

16. Privacy within the Grievance Process

Grievance process proceedings are private. All persons present at any time during the grievance process are expected to maintain the privacy of the proceedings in accordance with Ohio University policy and federal and state laws and regulations. Although there is an expectation of privacy around information and evidence shared with the parties during the investigation and hearing, the parties have the discretion to share their own knowledge and evidence with others if they so choose. Parties are encouraged to discuss any sharing of information with their advisors before doing so.

17. Grievance Process Pool

Members of the grievance process pool include investigators, hearing panelists, appeal officers, and university-appointed advisors who may perform any or all of these roles, though not at the same time or with respect to the same case.

Grievance process pool members receive annual training based on their assigned roles. This training includes topics appropriate for the roles filled by each member of the pool, which may include, but are not limited to, the following:

- The content of Ohio University Policy 03.004: Sexual Harassment and Other Sexual Misconduct, including the scope of the University's education program or activity;
- The definitions of all offenses;
- Conducting investigations and hearings in a manner that protects the safety of complainants and respondents and promotes accountability;
- Serving impartially and objectively by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;

- Upholding fairness, equity, and due process;
- Reporting, confidentiality, and privacy requirements;
- Applicable laws, regulations, and federal regulatory guidance;
- Conducting the grievance process, including the investigation, hearing, and appeals, in a thorough, reliable, and impartial manner;
- Conducting questioning;
- Issues of relevance of questions and evidence in the creation of an investigative report and/or in a hearing;
- Assessing credibility;
- Weighing evidence;
- Applying the definition of consent used by Ohio University consistently, impartially, and in accordance with policy;
- Rendering findings and generating clear, concise, evidence-based rationales;
- Determining appropriate sanctions and conditions of sanction for all charges;
- Implementing appropriate and situation-specific remedies;
- Any technology to be used at a live hearing; and
- Recordkeeping.

Members of the grievance process pool who serve as advisors receive specific training to prepare them for this role. The materials used to train members of the grievance process pool are publicly posted at <https://www.ohio.edu/equity-civil-rights/training-materials-title-ix-team>.

18. Ensuring Impartiality

Any individual materially involved in the administration of the grievance process (including the Title IX Coordinator, Investigators, hearing panelists, and appeal officers) may neither have nor demonstrate a conflict of interest or bias for complainants or respondents generally, or for a specific complainant or respondent.

The Title IX Coordinator will vet the assigned grievance process pool members to ensure there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the grievance process, the parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another pool member will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the office of the Executive Vice President and Provost.

The grievance process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the respondent engaged in a policy violation and evidence that supports that the respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a complainant, respondent, or witness.

Ohio University operates with the presumption that the respondent is not responsible for the reported misconduct unless and until the respondent is determined to be responsible for a policy violation by the preponderance of the evidence.

19. Assignment of Investigators

When a formal complaint is submitted, the Title IX Coordinator assigns two members of the grievance process pool to conduct the investigation.

20. Notice of Investigation and Allegations

The respondent will be provided a written notice of the investigation and allegations (the “NOIA”) with sufficient time to prepare before they are interviewed about the matter. The complainant will also be provided a copy of the written NOIA. The delivery of the NOIA commences the Sexual Harassment and Other Sexual Misconduct Grievance Process.

The NOIA will include:

- A summary of the conduct allegedly constituting a violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct and any related allegations of violations of the Student Code of Conduct to be addressed through the grievance process, if applicable;
- The identities of the involved parties (if known);
- The date, time, and location of the alleged incident(s) (if known);
- The specific policies implicated;
- A description of the applicable procedures, including the rights of the complainant and respondent and the standard of evidence applied to determine a violation;
- A statement of the potential sanctions that could result from the grievance process;
- A statement that Ohio University presumes the respondent is not responsible for the reported misconduct unless and until the preponderance of the evidence supports a different determination;
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence during the review and comment period;
- A statement about Ohio University’s policy on retaliation;
- Information about the privacy of the process;
- Information on the need for each party to have an advisor of their choosing, who may be, but is not required to be, an attorney;
- A statement informing the parties that Ohio University policy prohibits knowingly making false statements, including knowingly submitting false information during the grievance process;
- Details on how the parties may request disability accommodations, language assistance, and/or interpretation services during the investigation and hearing process;
- An instruction to preserve any evidence that is directly related to the allegations; and
- The names of the investigators, along with a process to identify to the Title IX Coordinator any conflict of interest that the party believes the investigator(s) may have.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available, including the addition or dismissal of allegations or charges. Should this occur, the parties will be sent a revised NOIA.

Notice will be made in writing and will be emailed to the parties’ Ohio University email account. At the discretion of the Title IX Coordinator, an alternate means of delivering the NOIA may be utilized if

circumstances warrant. Once emailed or otherwise sent or given in person, notice will be presumptively delivered.

21. Grievance Process Timeline

The Sexual Harassment and Other Sexual Misconduct Grievance Process commences with the delivery of the Notice of Investigation and Allegations. Ohio University will make a good faith effort to complete the grievance process within ninety (90) business days, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator. Notice and rationale for any extensions or delays will be provided to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

22. Respondent Initial Meeting

After the NOIA has been sent, the investigators will schedule an initial meeting with the respondent. The respondent may be accompanied at the initial meeting by an advisor of their choice and up to two support people as defined in Section 1. The purpose of this meeting is to review the information sent to the respondent in the NOIA, to provide additional information about the grievance process and available supportive measures, and to answer any questions the respondent or their advisor may have. The respondent will not be asked any questions about the allegations at the initial meeting.

The information that will be discussed with the respondent, if applicable based on the nature of the report and the status of the respondent, includes but is not limited to:

- A review of the information included in the NOIA;
- The name and contact information of the Title IX Coordinator;
- The rights of the complainant and respondent (see Appendix A), including the right to be accompanied at all meetings and the hearing, if applicable, by an advisor of their choice (see Appendix B);
- Possible supportive measures, including the availability of mental health and other resources both on campus and in the surrounding community;
- The process for investigating and resolving alleged violations of sexual harassment, other sexual misconduct, and retaliation;
- The general timeline of the grievance process;
- The importance of preserving potential evidence; and
- Amnesty available to students participating in the grievance process for alcohol or drug-related violations of the Student Code of Conduct.

Should the respondent not respond to the initial attempt to meet, the investigators will make two additional attempts. If the respondent does not respond at all, the investigators will send the respondent written acknowledgment of their non-participation and notice of the next steps in the process. The respondent will continue to be notified throughout the investigation and may participate at any point in the process prior to its conclusion.

23. Investigation Timeline

The investigation portion of the grievance process will be completed as quickly as possible, normally within forty (40) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, number and availability of witnesses, police involvement, etc.

Ohio University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

24. Delays in the Investigation Process and Interactions with Law Enforcement

At the discretion of the Title IX Coordinator, the investigation may be paused for a short period (typically several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The investigators will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates, if necessary. The investigation will promptly resume as soon as feasible. During such a delay, the Title IX Coordinator will implement supportive measures as deemed appropriate.

The grievance process may be initiated when a respondent is charged with behavior that potentially violates both civil/criminal law and University policy, without regard to pending litigation in court or criminal arrest and prosecution. The grievance process may be carried out prior to, simultaneously with, or following criminal or civil proceedings. Determinations made and sanctions imposed through this process will not be subject to change because criminal charges arising out of the same facts were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

25. Participation in the Grievance Process - Students

Should a student who is a complainant or respondent decide not to participate in the grievance process, the process proceeds in their absence to a reasonable resolution. The student will continue to receive updates regarding the progress of the investigation and hearing, if any, and may re-engage with the grievance process at any time prior to its conclusion.

26. Participation in the Grievance Process - Employees

Should an employee who is a complainant or respondent decide not to participate in the grievance process, the process proceeds in their absence to a reasonable resolution. The employee will continue to receive updates regarding the progress of the investigation and hearing, if any, and may re-engage with the grievance process at any time prior to its conclusion.

Should an employee respondent resign with unresolved allegations pending, the grievance process ends, as the University no longer has disciplinary jurisdiction over the resigned employee. However, the Title IX Coordinator will continue to address and remedy any ongoing effects of the alleged sexual harassment or other sexual misconduct on the complainant and/or community.

An employee respondent who resigns with unresolved allegations pending is not eligible for rehire with Ohio University at any campus or center, and the records retained by the Title IX Coordinator and Human Resources will reflect that status. All Ohio University responses to future inquiries regarding employment references for that respondent will include that the former employee resigned during a pending disciplinary matter.

27. The Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

28. Interviews

Throughout the investigation, the investigators will identify individuals they believe may have information relevant to the matter and will contact those individuals as potential witnesses. Additionally, the parties will be given the opportunity to suggest relevant witnesses. If unclear, the investigators may request that the parties explain how witnesses they suggest are connected to the matter being investigated and what relevant information they believe the person can provide to investigators.

The parties will also be given the opportunity to suggest questions they want the investigators to ask the other party and the witnesses. The questions provided by the parties will be documented in the investigative report, along with notations for which questions were asked and a rationale for any changes or omissions.

The investigators will interview the parties and all available, relevant witnesses. When a party or witness is expected to participate in an interview, the investigators will provide them with written notice of the day, time, and location of the meeting and the expected participants and purpose. Follow-up interviews may be scheduled with parties or witnesses as needed, for example, if additional charges are placed.

Should a party not respond to the initial attempt to meet for an interview, the investigators will make two additional attempts to interview the party. If the party does not respond to these attempts, the investigators will send the party written acknowledgment of their non-participation and notice of the next steps in the grievance process. The party will continue to be notified throughout the investigation and may participate at any point in the process prior to its conclusion.

Should a witness not respond to the initial attempt to meet for an interview, the investigators will make at least one additional attempt to schedule with that witness before moving forward in the process.

Interviews of the parties and witnesses may be conducted in person, or if circumstances warrant, they may be conducted remotely using Zoom or a similar technology, or by phone, if necessary. The investigators will take appropriate steps to ensure the security and privacy of remote interviews.

The investigators take careful and thorough notes regarding the questions asked and information provided during interviews with the parties and witnesses. Interviews are not audio or video-recorded.

Following each interview, the investigators will combine their notes into a summary of the relevant information from the interview. Interviewed parties and witnesses will be given the opportunity to review and verify the summary of their respective interviews written by the investigators. Clarifications resulting from a misunderstanding or error on the part of the investigators will be corrected before the summary is finalized. Additions or changes to the information provided by the party or witness will be added to the summary with a notation.

29. Evidentiary Considerations of the Investigation

The following information will not be considered relevant to the investigation: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent; 3) information protected by a legally recognized privilege, unless the holder of the privilege has voluntarily waived it in writing. Within the boundaries stated above, the investigation can consider relevant character evidence.

30. Review of Draft Investigative Report and Directly-Related Evidence

Prior to the conclusion of the investigation, the parties and their respective advisors (if so desired by the parties) will be provided access to a secured electronic copy of the draft investigative report, as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct. This directly related evidence will include evidence, if any, which the investigators do not believe is relevant and do not intend to include in the finalized investigative report for the hearing panel to rely on in reaching a determination.

The draft investigative report will include the following: the names of the investigators, a list of involved parties and witnesses, policies applicable to the matter, an overview of the allegations, the charges placed in the matter, summaries of the interviews with the parties and the available relevant witnesses, and other information as deemed relevant by the investigators. Appendices will include relevant physical or documentary evidence, questions asked by the investigators and suggested by the parties, and a comprehensive timeline of the investigation.

The investigators gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.

The draft investigative report and directly related evidence will be available to the parties and their advisors for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence in writing. The parties may elect to waive the full ten days.

The parties may elect to provide additional evidence or identify additional witnesses in response to the draft investigative report but should understand that doing so at this point of the investigation may delay the completion of the grievance process.

31. Finalizing the Investigative Report and Directly Related Evidence

If the parties submit written responses to the draft report and directly related evidence, the investigators will incorporate relevant elements of those written responses into the investigative report, include any additional relevant evidence, make any necessary revisions, and finalize the report.

The investigators may elect to respond in writing in the investigative report to the parties' submitted responses. The investigators will document all rationales for any changes made to the report after the review and comment period.

The final report will be shared with the parties and their advisors through secure electronic means at least ten (10) business days prior to a hearing. The parties will also be provided access to a file of any directly related evidence that was not deemed relevant and was, therefore, not included in the report.

If new evidence is provided by the parties after the investigative report is finalized, the Title IX Coordinator may delay the hearing so that the investigation may be reopened to consider that evidence.

32. Notice of Hearing

No less than ten (10) business days prior to the hearing, the investigators will send the notice of hearing to the parties. Once emailed, mailed, and/or received in-person, notice will be presumptively delivered.

The notice of hearing will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions and remedies that could result;
- The time, date, and location of the hearing;
- Any technology that will be used to facilitate the hearing;
- If the live hearing will be held in person or via video technology and the process for requesting alternate arrangements for hearing participation if it is scheduled to be held in person;
- A list of those who will attend the hearing, along with instructions for how to object to a hearing panelist on the basis of demonstrated bias or conflict of interest;
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing;

- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. If a party or witness does not participate in the hearing, verbal or written statements made by the party or witness as a part of the investigation will not be considered by the hearing authority in their deliberations if the party's or witness's credibility is in dispute and material to the outcome of the hearing. Evidence provided by that party or witness that is something other than verbal or written statements made by that party or witness as a part of the investigation may be considered by the hearing panel regardless of participation by the party or witness in the hearing. For compelling reasons, the hearing chair, in consultation with the Title IX Coordinator, may reschedule the hearing;
- Notification that the parties may have the assistance of an advisor of their choosing at the hearing and will be required to have one present to ask questions of the other party and witnesses. If they do not have an advisor, the Title IX Coordinator will appoint one for them;
- An invitation for each party to submit a written impact statement, including any sanctioning requests, should the respondent be found in violation, to the Title IX Coordinator prior to the hearing. The impact statement(s) will be held by the Title IX Coordinator and only provided to the hearing panel if the respondent is determined to be in violation and the hearing panel is making a sanctioning determination; and
- A reminder that disability accommodations, language assistance, and/or interpretation services may be requested for the hearing. Such a request must be made to the investigators no later than seven (7) business days prior to the hearing.

Hearings that are unable to be held prior to the end of a term will typically be held immediately after the end of the term or during the summer, as needed, to remain within the ninety (90) business day goal for the grievance process, to the extent possible.

33. Alternative Hearing Participation Options

If the hearing is scheduled to take place in person and a party or parties prefer not to or cannot attend in this manner, the party should request alternative arrangements from the investigators at least five (5) business days prior to the hearing so that the investigators can arrange to use technology to allow remote testimony.

Remote options may also be provided for witnesses who cannot attend in person. Any witness who cannot attend in person should let the investigators know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

34. Recusal of a Hearing Panelist

The parties will be given the names of the members of the hearing panel (the hearing chair and two additional panelists) in the notice of hearing at least ten (10) business days prior to the hearing. The members of the hearing panel will not have had any previous involvement with the investigation.

Objections to any hearing panelist on the basis of demonstrated bias or conflict of interest must be raised in writing with the Title IX Coordinator at least five (5) business days prior to the hearing and must detail the rationale for the objection. Hearing panelists will only be removed if the Title IX Coordinator

concludes that their demonstrated bias or conflict of interest precludes an impartial hearing of the allegations.

The hearing panelists will receive the names of all parties, witnesses, and advisors with the investigative report at least five (5) business days in advance of the hearing. Any hearing panelist who cannot make an objective determination must notify the Title IX Coordinator and recuse themselves from the proceeding. If a hearing panelist is unsure if bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

35. Pre-Hearing Meetings

Upon completion of the investigative report, the investigators will schedule separate pre-hearing meetings for the parties. The parties may each be accompanied at their pre-hearing meeting by an advisor of their choice and up to two support people as defined in Section 1.

The pre-hearing meetings will be scheduled at least five (5) business days prior to the hearing. The purpose of the pre-hearing meeting is to allow the investigators to answer any final questions the parties and their advisors may have and to clarify logistical matters such as confirming the identity of the parties' advisors and any requests the parties may have regarding their means of participation (i.e., remote participation by video technology). If a party does not attend the scheduled pre-hearing meeting, it will be cancelled, but the party may ask questions of the investigators as needed.

36. Hearing Procedures

The hearing panel has the authority to hear and make determinations on allegations of violations of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. If the respondent is a student, the hearing panel may also hear and make determinations on allegations of other conduct prohibited by the Student Code of Conduct stemming from the same incident(s) as the allegations under University Policy 03.004.

Participants at the hearing will be limited to the hearing chair, two additional hearing panelists, the investigators who conducted the investigation, the parties, the advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

Hearings (but not deliberations) are recorded for purposes of review in the event of an appeal. The hearing panelists, the parties, their advisors, the appeal officer (if appropriate), and appropriate Ohio University administrators will be permitted to listen to the recording, if needed, through a controlled means determined by the Title IX Coordinator. No person will be given or allowed to make a copy of the recording without permission from the Title IX Coordinator.

The hearing chair conducts the hearing from a script, which will be provided to the parties and their advisors for their reference during the hearing.

The hearing chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The hearing chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to questions from the hearing panel and the parties' advisors; the witnesses will then be excused.

37. Joint Hearings

At the discretion of the Title IX Coordinator, matters involving multiple complainants or respondents may be heard in the same hearing. Additionally, matters where there is a counterclaim or cross-complaint (i.e., both parties allege that the other violated University Policy 03.004) may also be heard in the same hearing. However, the Title IX Coordinator may determine that the investigation and/or hearing for each respondent should be conducted separately. In joint hearings, separate determinations of responsibility will be made for each respondent with respect to each alleged policy violation.

38. Evidentiary Considerations in the Hearing

Any evidence that the hearing panel determines is relevant and credible may be considered. The hearing panel will not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent; 3) information protected by a legally recognized privilege, unless the holder of the privilege has voluntarily waived it in writing. Within the boundaries stated above, the hearing panel can consider relevant character evidence.

Prior disciplinary action of any kind involving the respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanctioning stage of the process if there is a determination of responsibility and is not shared with the hearing panel by the Title IX Coordinator until then.

The parties may each submit a written impact statement, including any sanctioning requests should the respondent be found responsible, to the Title IX Coordinator prior to the hearing. The impact statement(s) will be held by the Title IX Coordinator and only provided to the hearing panel if the respondent is determined to be in violation and the hearing panel is making a sanctioning determination.

39. Order of the Hearing

The following is a guide as to how the hearing will be conducted. This order may be amended at the discretion of the hearing chair.

- The hearing chair will begin the hearing by discussing expectations for the hearing.
- The hearing chair will give a brief overview of the nature of the allegations.
- The hearing panel may ask the investigators clarifying questions regarding the investigation at any point during the hearing.
- The complainant will be given an opportunity to respond to the investigative report.

- The hearing panel will have an opportunity to ask complainant questions
- The respondent's advisor will be given the opportunity to ask relevant questions of the complainant as described below.
- The respondent will be given an opportunity to respond to the investigative report.
- The hearing panel will have an opportunity to ask respondent questions.
- The complainant's advisor will be given the opportunity to ask relevant questions of the respondent as described below
- The hearing panel will call witnesses and ask them questions.
- The complainant's advisor will be given the opportunity to ask relevant questions of witnesses as described below.
- The respondent's advisor will be given the opportunity to ask relevant questions of the witnesses as described below.
- The complainant will be given the opportunity to make a summary statement.
- The respondent will be given the opportunity to make a summary statement.

The hearing panel reserves the right to ask questions of anyone at the hearing at any time. Additionally, the hearing panel reserves the right to recess the hearing at any point and reconvene at a later time or date, should circumstances warrant.

40. Questioning of Parties and Witnesses

During the hearing, the parties and witnesses will submit to questioning by the hearing panel and then by the parties through their advisors. The hearing panelists and advisors will remain seated during questioning.

The hearing chair will determine the relevance of all questions. The advisor will pose the proposed question, the proceeding will pause to allow the hearing chair to consider it, and the hearing chair will determine if the question will be permitted, disallowed, or rephrased.

The hearing chair will then state their decision on the question for the record and advise the party or witness to whom the question was directed to answer or not answer the question accordingly. The hearing chair will explain any decision to exclude a question as not relevant or to reframe it for relevance.

The hearing chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior will not be considered relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The hearing chair has final say on all questions and determinations of relevance. The hearing chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the hearing chair has ruled on a question.

41. Hearing Participation

If a party or witness does not participate in the hearing, verbal or written statements made by the party or witness as a part of the investigation will not be considered by the hearing authority in their deliberations if the party's or witness's credibility is in dispute and material to the outcome of the hearing.

Evidence provided by that party or witness that is something other than verbal or written statements made by that party or witness as a part of the investigation may be considered by the hearing panel regardless of participation by the party or witness in the hearing.

The hearing panel may not draw any inference solely from a party or witness's absence from the hearing or refusal to answer questions from the advisor(s) or hearing panel.

42. Deliberation, Decision-making, and Standard of Proof

The hearing panel will deliberate in closed session and determine findings by a simple majority vote. The hearing panel will use the preponderance of the evidence standard in making their decision as to whether or not University policy was violated.

When there is a finding of responsibility on one or more of the charges, the hearing panel will request any written impact statements previously submitted by the parties and the respondent's previous disciplinary history, if any, from the Title IX Coordinator. If the impact statements are provided to the hearing panel, the parties and their advisors will be given access to view them during the appeal period described below.

The hearing panel may—at their discretion—consider the impact statements. The hearing panel will review the statements and the respondent's conduct history, if any, and will determine the appropriate sanctions for the respondent and remedies for the complainant, in consultation with appropriate University officials, as required.

The hearing chair will then prepare a written statement of finding and deliver it to the Title IX Coordinator. This statement will detail the determination, the rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions and remedies.

This report must be submitted to the Title IX Coordinator within three (3) business days following the conclusion of the hearing, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

43. Notice of Outcome

Using the statement of finding, the Title IX Coordinator will work with the hearing chair to prepare a notice of outcome. The Title IX Coordinator will then share the notice, including the final determination, rationale, and any applicable sanctions and remedies (as outlined below) with the parties and their advisors within four (4) business days of receiving the statement of finding from the hearing panel,

unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

The notice of outcome will be shared with the parties simultaneously. The notice will be made in writing and will typically be emailed to the parties and their advisors; however, any of the following methods may be used, in person, mailed to the local or permanent address of the parties as indicated in Ohio University records, or emailed to the parties' Ohio University email or otherwise provided and approved email address. Once emailed, mailed, and/or received in person, notice will be presumptively delivered.

The notice of outcome will state a summary of the allegations and the specific policies reported to have been violated and will contain a description of the procedural steps taken by Ohio University from the receipt of the report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and meetings and hearings held.

The notice of outcome will specify the finding on each policy violation; the findings of fact that support the determinations; conclusions regarding the application of relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation; any sanction and conditions of sanction issued which are permitted to be shared under state or federal law; and any remedies provided to the complainant designed to ensure access to Ohio University's education or employment program, to the extent that this information may be shared under state or federal law (details of remedies are not typically shared with the respondent unless the remedy directly relates to them).

The notice of outcome will also include information about the appeal options and process, any changes that occur prior to finalization, and when the results are considered by Ohio University to be final.

44. Sanctioning

Factors considered when determining a sanction and related conditions of sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s);
- The respondent's disciplinary history;
- The need for a sanction to end the impact of the sexual harassment and/or other sexual misconduct, to prevent its future recurrence, and/or to remedy its effects on the complainant and/or the community;
- The impact on the parties; and
- Any other information deemed relevant by the hearing panel.

Sanctions and conditions of sanction will be implemented either upon the outcome of any appeal or the expiration of the window to appeal if no appeal is requested.

45. Sanctions Applicable to Student Respondents

The following are the usual sanctions that may be imposed on students and student organizations or groups:

- **Reprimand** – Official notification of unacceptable behavior and violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct and/or the Student Code of Conduct. Any further violations may result in more serious sanctions.
- **Disciplinary Probation** – Sanction imposed for a designated period of time. Further violations of prohibited conduct may result in further disciplinary action, up to and including disciplinary suspension or disciplinary expulsion. Periodic probationary meetings may be required. Any assigned conditions of sanction must be completed prior to the conclusion of disciplinary probation; otherwise, the disciplinary probation will remain in effect until the conditions of sanction are completed.
- **Disciplinary Suspension (Student)** – Sanction imposed for a designated period of time. During the period of disciplinary suspension, the student may not attend classes (either in person or online) or participate in University-related activities, whether they occur on or off campus. Additionally, a student under disciplinary suspension may not be present on University premises unless authorized in writing in advance by the Title IX Coordinator. All assigned conditions of sanction must be completed prior to the conclusion of the disciplinary suspension; otherwise, the disciplinary suspension will remain in effect until the conditions of sanction are completed.

Students who have been suspended from the University through the Sexual Harassment and Other Sexual Misconduct Grievance Process must petition for re-enrollment through the Title IX Coordinator, who may grant the petition at their discretion. Students must complete a re-enrollment form through the registrar and be in good academic standing with their college to otherwise be eligible to re-enroll and return to the University. Students who re-enroll following a period of disciplinary suspension will return on disciplinary probation for the remainder of their academic career at Ohio University.

- **Disciplinary Expulsion (Student)** – Sanction which permanently removes the student from their academic program and separates the student from the University without the opportunity to graduate or re-enroll in the future. A student under disciplinary expulsion may not be present on University premises unless authorized in writing in advance by the Title IX Coordinator. Disciplinary expulsion will be noted on the student's academic transcript.
- **Disciplinary Suspension (Student Organization or Group)** – A temporary revocation of University recognition. While an organization or group is suspended, it may not use University resources or participate as an organization in any University activities or events. Disciplinary suspension of a student organization or group will not exceed five (5) years. Student organizations or groups who have been suspended from the University through the Sexual Harassment and Other Sexual Misconduct Grievance Process must petition for re-enrollment through the Title IX Coordinator, who may grant the petition at their discretion and in consultation with the director of community standards and student responsibility. Student organizations or groups who return following disciplinary suspension will return on a period of disciplinary probation.
- **Disciplinary Expulsion (Student Organization or Group)** – Permanent revocation of University recognition of the organization or group.

In conjunction with a sanction, a student respondent found to be in violation of this policy may be assigned conditions of sanction, which include, but are not limited to, access restriction, revocation of rights and privileges, housing or worksite reassignment, educational activities, etc.

The Title IX Coordinator is responsible for monitoring completion and compliance with all sanctions and conditions of sanction.

46. Sanctions Applicable to Employees

The following are the usual sanctions that may be imposed on employees:

- **Censure** – a formal statement of disapproval.
- **Reprimand** – official notification of unacceptable behavior and violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. Any further violations may result in more serious sanctions.
- **Suspension without Pay** – a defined period of time during which the respondent will not be permitted to work and will not receive pay.
- **Demotion and/or Loss of Tenure** – reassignment to a position of lower rank and pay.
- **Dismissal/Termination of Employment** – the end of an employee’s work at the University.

In conjunction with a sanction, an employee respondent found to be in violation of this policy may be assigned conditions of sanction, which include, but are not limited to, a performance improvement plan, denial of pay increase/pay grade, worksite reassignment, educational or training activities, restriction of stipends, research, and/or professional development resources, etc.

47. Appeals of Hearing Outcome

Both parties may file a request for appeal, which must be submitted in writing within five (5) business days of the delivery of the notice of outcome. The notice of outcome will include a link to the online appeal form, which should be used to submit any appeal to the Title IX Coordinator.

Any sanctions or conditions of sanctions imposed as a result of the hearing are typically stayed during the appeal process. If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, the emergency removal procedures must be followed (see Appendix C).

Appeals are limited to the following grounds:

- A procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or hearing panelist(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. (If an appeal claims a conflict of interest or bias on the part of the Title IX Coordinator, the Deputy Title IX Coordinator will manage the administration of the appeal process.)

If either party submits an appeal, that appeal and a link to the online rebuttal form will be shared with the other party, who will then have five (5) business days to submit a rebuttal. At their discretion and for cause, the Title IX Coordinator may elect to extend the deadline for appeals and/or rebuttals. Should this occur, both parties will be notified of the new deadline.

If the grounds for appeal include a claim of procedural irregularity or conflict of interest or bias, the Title IX Coordinator, investigators, and/or hearing panelists, as appropriate based on the content of the appeal, will be provided access to the appeal and be given five (5) business days to submit a response to the portion of the appeal that involves them.

The appeal, as well as the rebuttal and responses, if any, will be provided to the appeal officer, along with the case file. The appeal officer will be a member of the grievance process pool who was not involved in the process previously.

The following will guide the appeal officer during the review and consideration of the appeal and related materials:

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is a clear error and to the sanction and/or conditions of sanction only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing of the allegation(s). Appeals are confined to a review of the written documentation and case file of the original hearing and pertinent documentation regarding the specific grounds for appeal. The appeal officer may listen to part or all of the hearing recording, as needed to consider the specific grounds for appeal.
- An appeal is not an opportunity for the appeal officer to substitute their judgment for that of the original hearing panel merely because they disagree with the finding and/or sanction.
- The appeal officer may consult with the Title IX Coordinator on questions of procedure or rationale for clarification, as needed.
- Appeals granted based on new evidence will normally be remanded to the original investigators for necessary investigation and to the original hearing panel for reconsideration.
- Appeals granted on the basis of a procedural irregularity will typically be remanded to the original hearing panel for reconsideration or, if deemed appropriate by the appeal officer, a new hearing may be ordered with a new hearing panel.
- Actions taken if an appeal is granted on the basis of conflict of interest or bias will vary based on the role of the individual(s) identified as having the conflict of interest or demonstrating bias.

Within ten (10) business days of receiving materials related to the appeal, the appeal officer will make a decision on the appeal. If necessary, the appeal officer may take additional time to fully consider the appeal and rebuttal. Should this occur, both parties will be notified.

A written notice of appeal outcome will be sent to both parties simultaneously and will specify the finding on each ground for appeal and the rationale for each decision. If applicable, the notice may also include any specific instructions for remand or reconsideration, changes to the finding or to any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings.

The notice of appeal outcome will typically be emailed to the parties and their advisors; however, any of the following methods may be used, in person, mailed to the local or permanent address of the parties as indicated in Ohio University records, or emailed to the parties' Ohio University email or otherwise provided and approved email address. Once emailed, mailed, and/or received in person, notice will be presumptively delivered.

Once an appeal is decided, the outcome is final. Further appeals are not permitted unless a case is remanded to the original hearing body or new hearing is ordered. The finding and sanction (if any) that result from the remand or new hearing may be appealed on the grounds listed above and in accordance with the appeal process.

48. Notice of Final Determination

The Title IX Coordinator will issue a notice of final determination to both parties following the conclusion of the appeal process including a remand to the original hearing panel or a new hearing, or if there is no appeal, once the appeal period has passed. This notice will confirm that the grievance process has concluded, identify any changes that have occurred, and offer long-term remedies or other actions, as appropriate.

49. Long-Term Remedies and Other Actions

Following the conclusion of the grievance process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment or other sexual misconduct, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services,
- Referral to the Employee Assistance Program,
- Education to the individual and/or the community,
- Permanent alteration of housing assignments,
- Permanent alteration of work arrangements for employees,
- Climate surveys,
- Policy modification and/or training,
- Implementation of long-term contact limitations between the parties, and
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will identify any remedies needed to ensure no effective denial of educational access for the respondent.

As permitted in accordance with applicable law, Ohio University will maintain the privacy of any long-term remedies and supportive measures, provided privacy does not impair the University's ability to provide these services.

50. Failure to Comply with a Sanction, Conditions of Sanction, or Remedies

Respondents are expected to comply with an assigned sanction, any conditions of sanction and any remedies that relate to them within the timeframe specified by the hearing panel and/or appeal officer. Failure to do so, whether by refusal, neglect, or any other reason, may result in additional disciplinary action.

51. Recordkeeping

Ohio University will maintain records of the following for a period of at least seven (7) years:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on respondents;
3. Any remedies provided to complainants designed to restore or preserve equal access to Ohio University's education program or activity;
4. Any appeals and the results therefrom;
5. All materials used to train Title IX Coordinators, investigators, hearing panelists, and appeal officers, which will be made publicly available on the University's website; and
6. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to Ohio University's education program or activity; and
 - c. If no supportive measures were provided to the complainant, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Ohio University will also maintain any and all records in accordance with state and federal laws.

52. Process Review

The offices of Legal Affairs and Equity and Civil Rights Compliance (ECRC) will review this process periodically to assess the effectiveness and continued compliance. Changes will be made as necessary, and once those changes are posted on the ECRC website, they are in effect. The versions of the Sexual Harassment and Other Sexual Misconduct Grievance Policy and Process posted on the ECRC website are the versions in use at that time and control in the event of discrepancies between those versions and any other versions available online or elsewhere.

During the grievance process, the Title IX Coordinator may make minor modifications to the process that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

Appendix A: Rights of the Parties

Respondents have the right to be, and will be, presumed not responsible for a violation of prohibited conduct until found in violation by a preponderance of the evidence.

Additionally, both complainants and respondents have the right to:

- A fundamentally fair resolution as defined in the Sexual Harassment and Other Sexual Misconduct Grievance Process,
- Have their matter handled in a forthright and timely manner and to be treated with respect by Ohio University officials,
- Regular updates on the status of the grievance process,
- Have University Policy 03.004: Sexual Harassment and Other Sexual Misconduct Policy and its related process followed without material deviation,
- The preservation of privacy, to the extent possible and permitted by law,
- Petition to request that any Ohio University representative participating in the grievance process be recused on the basis of demonstrated bias and/or conflict of interest,
- Be informed of supportive measures, as available and appropriate and without fee or charge, whether a formal report has or has not been filed, and to have supportive measures remain private, provided privacy does not impair Ohio University's ability to provide them,
- Request reasonable accommodations due to disability,
- Timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date, time, and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions,
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional complainants, unsubstantiated allegations) and any adjustments needed to clarify potentially implicated policies,
- Not participate in the grievance process with the understanding that it may proceed without their participation,
- Have an advisor of their choice, who may be, but is not required to be, an attorney, present during any meetings, interviews, or hearings. The role of an advisor is outlined in Appendix B of the Sexual Harassment and Other Sexual Misconduct Grievance Process,

- Have an advisor appointed to them by the University, if they do not have one, for the purposes of questioning the other party and witnesses at the hearing,
- Have up to two support people present during any meetings or interviews that may occur as part of the grievance process. Support people may not be present at a hearing and may not be witnesses in the matter,
- Receive written advance notice of any meetings in which they are entitled to participate and the purpose of those meetings,
- A fair opportunity to provide the investigators with their account of the alleged misconduct and to have that account be on the record,
- Provide relevant statements, evidence, and information as part of the investigation,
- Ask the investigators to identify and question relevant witnesses, including expert witnesses,
- Know the names of all witnesses that are contacted as a part of the investigation,
- Provide the investigators a list of questions that, if deemed relevant by the investigators, may be asked of any party or witness,
- Secure electronic access to the draft investigative report and directly related evidence to be made available to the parties and their advisors for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence in writing,
- Secure electronic access to the final report at least ten (10) business days prior to a hearing, as well as, access to a file of any directly related evidence that was not deemed relevant and was, therefore, not included in the report,
- Speak or not speak as a part of the grievance process with the understanding that not participating in the hearing may result in the hearing panel not being able to consider statements made by the party as a part of the investigation,
- Question witnesses that participate in the hearing through their advisor,
- Be present, either in person or via video technology, during all testimony given and evidence presented during the hearing,
- Have incidents not directly related to the possible violation, unless they evidence a pattern, and inadmissible prior sexual history excluded by the hearing chair,
- The preponderance of the evidence as the standard of proof to be used to make a finding after an objective evaluation of all relevant evidence,
- Have the opportunity to submit a written impact statement for consideration by the hearing panel following a determination of responsibility for any allegation, but prior to sanctioning,

- Promptly receive a written notice of outcome containing the finding(s) and sanction(s) and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties,
- File a written appeal to be reviewed and decided by an appeal officer, and
- Be informed in writing of when a decision by Ohio University is considered final and any changes to the sanction(s) that occur before the decision is finalized.

Appendix B: Information Regarding Advisors

The parties may each have an advisor of their choice present with them for all meetings, interviews, and hearings within the grievance process, if they so choose. The parties may select whoever they wish to serve as their advisor as long as the advisor is eligible and available. "Available" means the party cannot insist on an advisor who simply doesn't have inclination, time, or availability. Also, the advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter or a supervisor who must monitor and implement sanctions.

Choosing an advisor who is also a witness in the grievance process creates potential for bias and conflict of interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing panel.

A. Who Can Serve as an Advisor

The advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the grievance process. The parties may choose advisors from inside or outside of the Ohio University community.

Parties have the right to choose not to have an advisor in the initial stages of the grievance process, prior to the hearing.

B. The Advisor's Role in Meetings and Interviews

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

C. Advisors in Hearings/Ohio University Appointed Advisor

Under U.S. Department of Education regulations under Title IX, the parties are not permitted to question each other or any witnesses directly. Instead, each party's advisor must question the other party and the witnesses on their behalf. If a party does not have an advisor for a hearing, Ohio University will appoint an advisor for the limited purpose of asking questions provided by the party of the other party and witnesses.

A party may reject this appointment and choose their own advisor, but they may not proceed without an advisor. If the party's advisor will not conduct questioning, Ohio University will appoint an advisor who will do so, whether or not the party has chosen to participate in the hearing. Extensive questioning of the parties and witnesses may also be conducted by the hearing panel during the hearing.

D. Advisor Violations of Ohio University Expectations

All advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on

behalf of the advisee to the investigator(s) or hearing panel, except when asking questions of the other party and witnesses during a hearing.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the grievance process. Although the advisor generally may not speak on behalf of their advisee, the advisor may consult with their advisee, either privately as needed or by quietly conferring or passing notes during any grievance process meeting, interview, or hearing. For longer or more involved discussions, the parties and their advisors should ask for breaks to allow for private consultation.

Any advisor who oversteps their role as defined by this policy will typically be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting or hearing will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the advisor's non-compliance and future role.

E. Sharing Information with the Advisor

Ohio University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their advisors. There is an expectation of privacy around information and evidence shared with the parties during the investigation and hearing; however, parties may share this information directly with their advisor, if they wish. Doing so may help the parties participate more meaningfully in the grievance process. (The parties have discretion to share their own knowledge and evidence with others if they so choose. Parties are encouraged to discuss any sharing of information with their advisors before doing so.)

Parties may also sign a consent form that authorizes Ohio University to share such information directly with their advisor. The parties must complete and submit this form to the Title IX Coordinator or the investigators before the University is able to share records with an advisor.

If a party requests that all communication be made through their attorney advisor, Ohio University will comply with that request at the discretion of the Title IX Coordinator.

F. Privacy of Records Shared with the Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Ohio University. The Title IX Coordinator may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by Ohio University's privacy expectations.

G. Expectations of an Advisor

Ohio University generally expects an advisor to adjust their schedule to allow them to attend grievance process meetings when planned but may change scheduled meetings to accommodate an advisor's inability to attend, if doing so does not cause an unreasonable delay.

Ohio University may also make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

H. Expectations of the Parties with Respect to Advisors

A party may elect to change advisors during the grievance process and is not obligated to use the same advisor throughout. The parties are expected to inform the investigator(s) of the identity of their advisor when the advisor first participates with the party and to provide timely notice to the investigators if they change advisors at any time during the grievance process.

It is assumed that if a party changes advisors, consent to share information with the previous advisor is terminated, and a release for the new advisor must be secured. Parties are expected to inform the investigators of the identity of their hearing advisor at least fifteen (15) business days before the hearing so that the advisor may be properly listed in the notice of hearing that must be sent to the parties no less than ten (10) business days before the hearing.

For parties who are entitled to union representation, the University will allow the unionized employee to have their union representative (if requested by the party) as well as an advisor of their choice present for all grievance process meetings, interviews, and hearings. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two advisors. Witnesses are not permitted to have union representation or advisors in grievance process interviews, meetings, or hearings.

Appendix C: Emergency Removal Process

Under specific circumstances, Ohio University may remove a student respondent from the University's education program or activity, in part or entirely, on an emergency basis. Before an emergency removal is enacted, the Title IX Coordinator conducts an individualized safety and risk analysis in conjunction with the Dean of Students and the Ohio University Police Department.

This risk analysis will determine if there is an immediate threat to the physical health and safety of any student or other individual arising from the allegations of sexual harassment or other sexual misconduct, and if that immediate threat justifies the emergency removal of the respondent from the University's education program or activity. The Title IX Coordinator will also consider the applicability of disability laws to the removal decision.

An emergency removal is not tantamount to a determination of responsibility or a sanction. Ohio University may remove a respondent on an emergency basis whether the grievance process is underway or not.

The Title IX Coordinator will implement the least restrictive emergency removal actions possible in light of the circumstances and safety concerns. These actions may include, but are not limited to, interim suspension from University premises and activities (including class attendance), removal from University housing, restriction of access to particular areas of campus, and suspension of participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate athletics.

In all cases where an emergency removal is imposed, the student respondent will be issued a Notice of Removal letter. Notice will be made in writing and will be emailed to the respondent's Ohio University email account. At the discretion of the Title IX Coordinator, an alternate means of delivering the Notice of Removal letter may be utilized if circumstances warrant. Once emailed or otherwise sent or given in person, notice will be presumptively delivered.

Upon delivery of the Notice of Removal letter, the respondent may request a review meeting with the Title IX Coordinator where the respondent may show cause why the removal should not be implemented or should be modified.

Requests for a review meeting with the Title IX Coordinator must be made within three (3) business days of delivery of the Notice of Removal. The review meeting will be held as soon as reasonably possible after the request is made by the respondent. If the respondent does not request a meeting within the three (3) business days, objections to the emergency removal will be deemed waived.

The review meeting with the Title IX Coordinator is not a hearing on the merits of the allegation(s) but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. The respondent may be accompanied by the advisor of their choice at the review meeting. The complainant and their advisor of choice may be permitted to participate in the meeting if the Title IX Coordinator determines it is equitable to do so.

At the review meeting with the Title IX Coordinator, the respondent will be allowed to present their position regarding why they believe the emergency removal should not be implemented or should be modified.

The Title IX Coordinator will prepare a written determination/response to the review meeting within two (2) business days of the meeting taking place.

The Title IX Coordinator has sole discretion to implement or stay an emergency removal and to determine the conditions and duration. The Title IX Coordinator's decision is final; there is no appeal process for an emergency removal decision.

If the Sexual Harassment and Other Sexual Misconduct Grievance Process does not move forward following an emergency removal, the emergency removal will be rescinded and the party notified promptly.

Violation of an emergency removal under University Policy 03.004 will be grounds for separate discipline, which may include actions up to or including expulsion from the University.

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