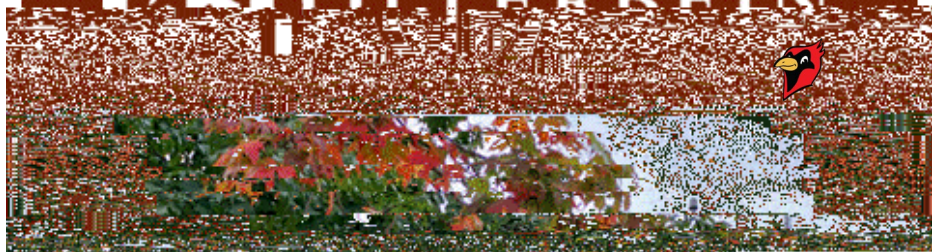




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OTTERBEIN



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Title IX Grievance Policy

The purpose of the Title IX Grievance Policy - Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against based on sex in seeking access to any educational program or activity receiving federal financial assistance.

How does the Title IX Grievance Policy impact other campus disciplinary policies?

Only incidents falling within the definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Title IX Grievance Policy defined below.

The University remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating

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2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity;
3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Ohio domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Ohio.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

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

Consent

Consent means informed, freely and actively given, mutually understandable words or actions, which indicate a willingness to engage in mutually agreed upon sexual activity.

- Consent is active, not passive.
- Silence or lack of resistance, in and of itself, cannot be interpreted as consent.
- Consent can be given by words, actions, or behaviors as long as those words, actions, or behaviors create mutually understandable clear permission regarding willingness to engage in the conditions of sexual activity:

- Intimidation is implied threats, including the exertion of perceived or actual power resulting from position or stature.
- A person must be of legal age (16) to give consent.
- An incapacitated person cannot give consent. Sexual activity with someone whom one should know to be mentally or physically incapacitated (by alcohol or other drug use, unconsciousness, or blackout) does not consent to sexual activity and therefore is a violation of this policy.
- Incapacitation is a state where someone cannot make rational, reasonable decisions
- Incapacitation may result from mental disability, sleep, involuntary physical restraint, and alcohol or drug impairment, including taking “rape drugs.” A rape drug is any drug intentionally used to incapacitate another victim to assist in the execution of drug-facilitated sexual

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Specific Report Requirements for Minors on Campus

Any faculty, staff, appointee, student, student employee, graduate assistant, vendor, or volunteer who in the course of their duties witnesses child abuse (including sexual abuse) or neglect or has information that would lead a reasonable person to believe the minor faces a substantial threat of such abuse or neglect must immediately make two calls and within one business day submit one report as described below:

- Call 911 (child in imminent danger) or Children's Services Agency (not imminent danger). If a child is in imminent danger, call 911. If a child is not in imminent danger, call the Children's Services Agency. (2.2 (us)--6.3 () 1 (m)-12 (t)-1.1 (ant) na T692.9 (al)-h-6dporin cat dut(bus)-8.113 T(l)3vmlw ())-6.3 (or)

harassment against a respondent about conduct within the University's education program or activity and requesting initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

Privacy vs. Confidentiality

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean the University offices and employees cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Co

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

Confidential Reporting

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

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

Officials of Authority

President

Provost

Executive Vice President for Strategic Initiatives

Vice President of Business Affairs

Vice President of Institutional Advancement

Vice President of Enrollment Management

Vice President of Student Affairs

Chief Diversity Officer

Executive Director of the Point

Director of Residence Life

The following Officials may provide confidentiality:

Employee Confidential Resources

Employee Assistance Program 800.865.1044

Student On-Campus Confidential Resources

Mental Health Counselor 614.823.1333

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

Off-Campus Confidential Resources for Employees and Students

SARNCO - Sexual Assault Response Network of Central Ohio
614.267.7020

CHOICES - 24 Hour Domestic Violence Hotline
614.224.4663

Mt. Carmel Crime & Trauma Assistance Program -
614.234.5900

Buckeye Region Anti-Violence Organization (BRAVO) -
614.294-7867

Rape, Abuse, & Incest National Network (RAINN)
800.656.4673

Anonymous Reporting

The following resources provide anonymous reporting options. Anonymous reporting may limit the University's ability to investigate and resolve the complaint.

Campus Conduct Hotline

866.943.5787

Otterbein Police Silent Witness online form at

<https://www.otterbein.edu/police/silent-witness-form/>

Non-Investigatory Measures Available Under the Title IX Grievance Policy

Supportive Measures

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

decision to the Vice President of Student Affairs. The Vice President of Student Affairs or designee must issue a written decision within five (5) calendar days of receiving the student's written appeal.

Administrative Leave

The University retains the authority to place a non-student employee respondent on administrative leave during the Title IX Grievance Process.

The Title IX Grievance Process

Filing a Formal Complaint

The time frame for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than one hundred twenty days (120) calendar days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator with a written, signed complaint describing the facts alleged. Complainants can only file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of the University, including as an employee. For complainants who do not meet these criteria, the University will utilize existing policies in the Student Code of Conduct and Sexual Misconduct Policy.

2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in the University's education program or activity; and
4. The alleged conduct, if true, would constitute covered

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled or employed by the University; or,
- If specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process outlined in “Appeals,” below.

Notice of Dismissal

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

Notice of Removal

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

University email accounts if they are a student or employee, and by other reasonable means if they are neither. The University will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

Contents of Notice

The Notice of Allegations will include the following:

Notice of the University's Title IX Grievance Process including any informal resolution process and a hyperlink to a copy of the process.

- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the
- Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made after the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the

- A statement that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Ongoing Notice

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

Notice of Meetings and Interviews

The University will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews,

or other meetings with a party, with sufficient time for the party to prepare to participate.

Delays

Each party may request a one-time delay in the Grievance

The University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. The University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

Inspection and Review of Evidence

Before the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party equal opportunity to meaningfully respond to the evidence before the conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Relevant Evidence, even if that evidence does not end up being relied upon by the University in determining responsibility.
2. inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigator to consider before when the parties' time to inspect and review evidence begins.

discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a reasonable extension as their designated extension request.

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

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

Inclusion of Evidence Not Directly Related to the Allegations

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

Investigative Report

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

Newly-Discovered Evidence

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

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

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

If the Decision-maker answers in the affirmative to both questions, then the parties

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

Witnesses

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

Prehearing Conference

Each party will have 15 minutes to present their case. The hearing will be held on the 11th of October 2011 at 11.00am in room 1.10.48 of the Student Centre.

- The advisor is strongly encouraged to discuss lines of questioning with the Hearing Chair at the Pre-Hearing Conference to obtain guidance from the Hearing Chair on relevancy prior to the hearing. The Hearing Chair will discuss the expectations and guidelines for appropriate behavior and decorum during the hearing.
- After reviewing each party's witness list, the Hearing Chair may, at their discretion, add names of other witnesses contained in the report(n)-12.24 (ha)-12. apprng h ep

General Considerations for Evaluating Testimony and Evidence

While the expert witness will be allowed to testify and be crossed, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the

- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding which section of the Policy, if any, the respondent has or has not violated.

For each allegation:

- A statement of, and rationale for, a determination regarding responsibility;
- A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
- A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
- The recipient's procedures and the permitted reasons for the complainant and respondent to appeal are described below in Appeals.

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within ten (10) calendar of the completion of the hearing.

Remedies and Sanctions

Sanctions must be designed to restore or preserve equal access to the University's education program or activity.

When the Respondent is an employee, examples are:

- Letter of Reprimand
- Mandatory Training
- Suspension (paid or unpaid)
- Termination

- Educational Sessions, including STARRSA (evidence-based intervention for people who cause sexual harm).

When the Respondent is a student, examples are:

- Restitution

dismissal was made, that could affect the outcome of the matter;

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

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

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

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

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

Retaliation

The University will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual to interfere with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, to interfere with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise

ensure that approved reasonable accommodations (disability-related) are implemented. Accommodations approved by Disabilities Services must be implemented.

When a student and/or a parent of a minor student, or other authorized legal representative informs a school employee of a student's pregnancy or related conditions, the university must provide both the student and the reporting individual information about the school's Title IX policy. Schools are prohibited from disclosing personally identifiable information they obtain through complying with Title IX, including information about reasonable modifications for pregnancy or related conditions.

The Universityto

- Allow the student to voluntarily access any separate and

- To be told about criminal and student conduct reporting options and the right to be assisted by campus authorities.
- To learn about possible protective measures, including but not limited to, changes in class schedules, alternative housing assignments, campus employment, and restricted contact.

- To be informed about University and community support services and resources.
- To learn about possible measures, including but not limited to, changes in class schedules, alternative housing assignments, campus employment, and restricted contact.
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The *Campus Life Handbook* is updated by the Student Affairs Office. If you have any questions, please call 614.823.1250 and we will be glad to help you.

Office of Student Affairs