

Policy Number: 300

Date Issued: June 24, 2015

Section: Human Resources

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Title: Sex or Gender-Based Harassment,
Discrimination, and Sexual Misconduct Policy

Review Date: Annually

Effective Date: July 1, 2015

Responsible University Officer: Provost/Vice President for Academic and Student Affairs

Responsible Office: Office of the Provost

Applies to: Faculty, Staff, Administrators, Students, Visitors, Guests

I. Policy

A. Policy Statement

The University is committed to ensuring a safe environment free from all forms of sex or gender-based harassment, discrimination, and sexual misconduct. All members of the University community, including students, faculty, staff, guests, and visitors, are expected to conduct themselves in a manner that does not infringe upon the rights of others. The University takes the position of zero tolerance for sex and gender-based misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the individual whose rights have been violated as well as the effects on the community are remedied, including serious sanctions when a responding party is found to have violated this policy.

This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.

Capital University uses preponderance of the evidence (also known as "more likely than not") as the standard of proof to determine whether a violation of this policy occurred. Legal terms, such as "guilt," "innocence," and "burdens of proof" are not applicable, as individuals are either found "responsible" or "not responsible" for a violation of this policy and it is neither

party's burden to prove their case. The University never assumes a responding party is in violation of the University policy. Rather, trained investigators conduct a thorough, neutral, and impartial investigation into the incident, and the totality of all available evidence and information from all relevant sources are considered before rendering a decision regarding responsibility.

B. Notice of Nondiscrimination

The University is committed to providing a safe and nondiscriminatory environment for all students and employees. The University does not discriminate on the basis of race, color, national and ethnic origin, sexual orientation, religion, sex and gender, age, disability, veteran status, or any other characteristic protected by law in its admission policies, scholarship and loan programs, athletic and other university-administered programs or activities, in employment, or in its policy administration. The University reaffirms its long-standing philosophy and principles of non-discrimination, non-harassment and non-retaliation for protected characteristics for all members of the University community. This policy addresses discrimination on the basis of sex and gender. Please refer to the University's **Nondiscrimination Policy** for all other forms of discrimination.

The University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sexual misconduct, including sexual harassment, as defined in this policy is a form of sex discrimination prohibited by Title IX of the Education Amendments of 1972, which requires that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964.

C. Title IX Team

The University's Title IX Coordinator oversees compliance with all aspects of the sex or gender-based harassment, discrimination, and sexual misconduct policy. The Title IX Coordinator reports directly to the Provost and Vice President for Academic and Student Affairs. The Title IX Deputy Coordinator supports the Title IX Coordinator in compliance efforts. Members of the University community are encouraged to contact a member of the Title IX team if they have any questions regarding Title IX or this policy. Confidential and non-confidential reporting options are outlined later in this policy.

Title IX Coordinator:

Assistant Provost and Title IX Coordinator
Jennifer Speakman, Ph.D.
jspeakman@capital.edu
614.236.6138

Title IX Deputy Coordinator (Law School):

Assistant Dean of Student Affairs
Robin Goodstein
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D. Summary of Process

Upon receipt of a complaint of sex or gender-based harassment, discrimination or sexual misconduct, the University's process involves an immediate initial investigation to determine if there is reasonable cause to believe this policy has been violated. If so, the University will initiate a prompt, thorough, fair and impartial investigation. This investigation is designed to provide a fair and reliable determination about whether the University's Sex or Gender-Based Harassment, Discrimination and Sexual Misconduct Policy has been violated. If so, the University will implement a prompt and effective remedy designed to end the misconduct, prevent its recurrence, and address its effects. After the initial investigation, and prior to a finding of Responsible or Not Responsible, the parties may have an opportunity to resolve the complaint through an **Informal Administrative Resolution** process. The informal process may be utilized only when the Title IX Coordinator determines that this is a suitable option for resolving the concern, and both the Complainant and Respondent agree to use of the informal administrative resolution process. The informal process cannot be used to resolve sexual assault (non-consensual sexual intercourse or contact) or sexual violence allegations.

Through the publication and dissemination of this policy, the University provides written notification to students and employees about existing counseling, health, mental health, survivor advocacy, and other services available both within the University and in the community for survivors of sexual misconduct.

E. Covered Programs and Activities

The University has jurisdiction to investigate and remedy all types of misconduct that fall under this policy and that: occur on University premises; occur at University-sponsored or University-supervised events regardless of where they take place; that occur off University premises when the behavior may adversely affect the University community and its interests as an academic community; or that concern any facet of the relationship between a student or employee and the University's off campus academic and other recognized programs. Specifically, this includes academic, educational, study abroad, extracurricular, athletic, and any other University programs, whether those programs take place in the University's facilities, on University provided transportation, at a class or training program sponsored by the University at another location, or elsewhere. Additional examples include University-sponsored field trips, University-recognized theme houses, athletic team travel, debate team travel, moot court team travel, and events for University clubs and extra-curricular activities that occur off campus.

If the incident does not occur in a covered program or activity, the University may still provide support including counseling and assistance on how to file a criminal complaint with the appropriate law enforcement agency. The University will address off-campus misconduct that creates a hostile environment on campus.

II. Definitions

A. Definitions of Prohibited Conduct

1. **Sexual Misconduct:** contact of a sexual nature without clear, knowing and voluntary consent, or offensive sexual or other behavior that exploits another person on the basis of sex or gender, including the following:
 - a. **Non-consensual sexual intercourse:** any sexual penetration (anal, oral or vaginal), however slight, with any body part or object by any person upon any person without consent.
 - b. **Non-consensual sexual contact:** any intentional sexual touching, either by the offender or when the complainant is forced to touch, with any body part or object without consent.
 - c. **Sexual Harassment:** unwelcome conduct, based on sex or gender that creates a hostile environment or otherwise results in individuals being denied equal opportunity in the terms and conditions of their education or employment. It is defined in two broad categories:
 - i. **Quid pro Quo:** involves promises (e.g., high grades, raises, promotions) based on an individual's willingness to submit to unwelcome behavior, including sexual favors or activities or relationship or other unwelcome attention based on the person's sex or gender. It can also involve threats (e.g., demotion, bad grades, corrective action, etc.) based on an individual's refusal to submit to unwelcome behavior, including being involved in a sexual or romantic relationship, granting sexual favors or engaging in other sexual or unwelcome activities based on sex or gender. The promise or threat does not necessarily need to be overt.

Examples of "Quid pro quo" Sexual Harassment: Submission to unwelcome conduct on the basis of sex or gender is made either explicitly or implicitly a term or condition of an individual's employment, academic status, participation in any program or activity, or living environment.

- ii. **Hostile Environment:** ordinarily exists when there are incidents of verbal or nonverbal behavior in the academic environment or workplace that focus on the gender of a person, that are unwelcome, that are severe or pervasive enough to adversely affect a person's academic environment or work, and that are outside the realm of appropriate academic study or work practices.

Examples of "Hostile Environment" Sexual Harassment. These are examples of the types of conduct that, if severe or pervasive enough, can create a hostile work or educational environment on the basis of sex or gender:

- Inappropriate comments of a sexual nature, including sexually explicit comments, questions, or jokes; Inappropriate remarks about sexual activity or sexual experience.
- Persistent, unwelcome attempts to change a working or academic relationship into a romantic or sexual relationship.

- Abusive or derogatory remarks about individuals or classes of individuals on the basis of their gender.
 - Persistent and unwelcome forms of attention toward another member of the University community such as requests for dates, flirtations, sexual advances, phone calls or other communications, or unwanted gifts.
 - Touching, patting, hugging, brushing against an individual's body, or repeated or unwanted staring.
 - Display of inappropriate sexually oriented or derogatory materials in a location where others can see them.
 - Sexual violence or assault (can also be a criminal violation subject to the criminal justice system).
- iii. Hostile Environment discrimination based on other protected characteristics is covered by the University's **Nondiscrimination Policy**.
- d. **Sexual Exploitation:** taking non-consensual, unjust, or abusive sexual advantage of another. Examples include, but are not limited to, prostituting another student or employee, non-consensual video or audio-taping of sexual activity, purposeful distribution or dissemination of sexual or intimate images or recordings of another person without that person's full knowledge or consent, going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity), engaging in non-consensual voyeurism, and knowingly transmitting or exposing another person to a sexually transmitted infection (STI) without the knowledge of the person.
- e. **Stalking:** engaging in a course of conduct directed at a specific person, based on sex or gender that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- f. **Domestic Violence:** violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child, by a person who is or was cohabitating with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant, and/or by any other person against an adult or youth victim who is protected from that person under the domestic or family violence laws.
- g. **Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant, and where the existence of such a relationship is determined based on the following factors: length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.
- h. **Indecent Exposure:** the exposure of the private or intimate parts of the body in a lewd manner in public or in private premises when the accused may be readily observed.

2. **Retaliation:** is prohibited conduct under this policy and the University will not tolerate retaliation in any form against any student, faculty, or staff who reports sexual misconduct (Reporter), files a complaint (Complainant), against whom a complaint has been filed (Respondent), serves as a witness, assists the Complainant or Respondent, or participates in the University's resolution of a misconduct claim. The University will take immediate and responsive action to any report of retaliation.

Retaliation includes any form of intimidation, threat, coercion or any other type of discrimination because of the individual's complaint or participation in the University's resolution process. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the sexual misconduct allegation.

3. **False Reporting:** Any **false report** of behavior or incidents alleging sexual misconduct, with intent to mislead, is a violation of this policy. A good faith complaint that results in a finding of not responsible is not considered a false or fabricated report.

B. Amnesty Policy: The University is committed to facilitating an environment that supports reporting incidents of sexual misconduct. Individuals may be hesitant to report to University officials or participate in the resolution process because they fear that they themselves may be accused of a policy violation, such as underage drinking at the time of the incident. To encourage reporting, the University has an Amnesty provision, as delineated in Section 1, part D (Special Provisions for the Code of Student Conduct) of the Student Handbook, in which the University will attempt to provide educational options rather than formal sanctions for minor policy violations related to the incident.

C. Definition of Consent: **Consent** is informed, freely and actively given, mutually understandable words or action, which indicate a willingness to engage in mutually agreed upon sexual activity.

- Consent is active, not passive.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in the conditions of sexual activity: who, what, when, where, why, and how sexual activity will take place.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Consent can be withdrawn at any time by word or action.
- Previous relationships or prior consent cannot imply consent to current or future sexual acts.

To be effective, consent cannot be obtained by use of physical force, compelling threats, intimidating behavior, or coercion.

- Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion.

- Coercion is unreasonable pressure for sexual activity. When a person indicates by words or actions that they do not want to engage in sexual activity, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- 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 who one should know to be mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout) is not consented 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 person to assist in the execution of drug facilitated sexual assault.
- Possession, use and/or distribution of any so-called “rape drug” is prohibited and administering these drugs to another person is a violation of this policy.
- Being under the influence of alcohol or other drugs will not excuse behavior that violates this policy.

D. Definition/Identification of Parties as used in this Policy:

- 1. Complainant:** an individual who invokes the University’s investigation and resolution process to determine if the Sex or Gender-Based Harassment, Discrimination and Sexual Misconduct Policy has been violated and identifies as a victim/survivor of the alleged misconduct. In some circumstances, the University may assume the role of Complainant.
- 2. Respondent:** an individual or organization alleged to have violated the Sex or Gender-Based Harassment, Discrimination and Sexual Misconduct Policy.
- 3. Reporter or Reporting Party:** an individual who notifies the University that a violation of the Sex or Gender-Based Harassment, Discrimination and Sexual Misconduct Policy may have occurred.
- 4. Advisor:** a person chosen by the Complainant or the Respondent, if desired, to provide assistance during the complaint and resolution process. The advisor can be someone from inside or outside the university community, but cannot be involved in the Title IX process such as serving as a witness. Either party may also choose to proceed without an advisor. The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present. The advisor may consult with the advisee quietly or in writing or during breaks in the meeting, but may not speak on behalf of the advisee. (See additional information in “Part IV Procedures, C. Investigation Process” of this policy.)

5. **Title IX Coordinator:** the University employee responsible for overseeing all investigations related to sexual misconduct, to ensure prompt, fair, and impartial investigation and resolution. This person will coordinate the in-take, investigation, and review of all complaints that fall within this policy. Investigation and review of complaints may be delegated to the **Title IX Deputy Coordinator, the Title IX investigators,** or other qualified individuals as deemed appropriate by the Title IX Coordinator.

III. Reporting under this Policy: Having an awareness of your resources and reporting incidents promptly is important to addressing sex or gender-based harassment, discrimination and sexual misconduct at the University. This section outlines reporting options, including confidential and non-confidential reporting, to assist students and employees with making an informed decision about reporting violations of this policy.

When a student or employee reports to the University that the student or employee has been subjected to sexual misconduct, whether the incident occurred on or off University property, the University will provide the student or employee written notification of the student's or employee's rights and options under this policy, about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for survivors both on-campus and in the community, and about the importance of preserving evidence.

A. Confidential Reports

1. Confidentiality Generally

The University will make every effort reasonably possible to preserve the privacy of an individual who makes an official report and to protect the confidentiality of the information reported. When a Complainant requests that no action be taken or that their name not be used, the Complainant will be advised that the University's ability to respond will be limited but that the University will take all appropriate action consistent with the request. However, there will be situations in which the University may decide to override a request for confidentiality or that no action be taken in light of the nature of the incident or perceived threat to the University community. Such considerations include the risk of additional attacks, the use of weapons or drugs, multiple attackers, past conduct, and whether the attack was accompanied by other crimes or threats. Therefore, Complainants desiring to make truly confidential reports should review the confidential reporting section below.

2. Confidential Reports

The degree to which confidentiality can be protected depends upon the professional role of the person being consulted. The professional being consulted should attempt to make every reasonable effort to clearly share these limits before any disclosure of facts. The individuals/offices below are recognized by the University as being able to receive confidential reports.

Off-Campus Confidential Resources for Employees:

Employee Assistance Program 800.854.1446
(available to benefit-eligible employees)

On-Campus Confidential Resources for Students:

Center for Health and Wellness Mental Health Counselor 614.236.6114
Dean of the Chapel/University Pastor 614.236.7737

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
Buckeye Region Anti-Violence Organization (BRAVO) 614.294-7867
Rape, Abuse, & Incest National Network (RAINN) 800.656.4673
(National hotline that connects callers to their nearest rape crisis line.)

Anonymous Reporting for Employees and Students:

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

Campus Conduct Hotline (EthicsPoint) 888.238.1063
Or EthicsPoint reporting website: www.ethicspoint.com

As required by law, all disclosures to any Capital employee of an on-campus sexual assault are tabulated for statistical purposes without personal identifying information.

- B. Non-Confidential Reports:** The following options for reporting are not confidential in that other University employees with a need to know so as to stop the conduct, conduct an investigation, and resolve the matter will know of the complaint.

Employees and students are encouraged to report complaints to the Title IX Coordinator or Title IX Deputy Coordinator:

Title IX Coordinator: Assistant Provost and Title IX Coordinator
Jennifer Speakman, Ph.D.
jspeakman@capital.edu
614.236.6138

Title IX Deputy Coordinator (Law School): Assistant Dean of Student Affairs
Robin Goodstein
rgoodstein@law.capital.edu
614.236.6402

Employees and students are encouraged to speak to University officials to make formal reports of incidents. All University employees are required, as Responsible Employees, to report details related to sex or gender-based harassment, discrimination or sexual misconduct to the Title IX Coordinator or Deputy Title IX Coordinator, unless employees fall under the “Confidential Reports” option outlined previously. Notice to a University employee is official notice to the institution. You have the right and can expect incidents of sexual misconduct to be taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through administrative procedures.

C. Reporting of Sexual Violence Including Sexual Assault, Dating Violence, Domestic Violence, or Stalking

Survivors of sexual assault and sexual violence, such as domestic/dating violence and stalking, are encouraged to get to a safe place and obtain immediate medical treatment. Calling Capital University Police or 911 is important to obtain immediate medical assistance and medical support, and to preserve evidence. Students and employees are encouraged to report sexual assaults to the Capital Police Department or the Columbus or Bexley Police Departments immediately following the incident if possible. If reported to Capital Police, an officer from the Capital Police Department will meet with the Reporting Party to take a report. On the Bexley Campus, Capital Police will typically involve the Bexley Police Department in the investigation. The Reporting Party can make decisions about their level of involvement in an investigation and potential criminal or University action, including declining to be involved. Capital Police will provide assistance in preserving relevant materials and may assist in obtaining, securing, and maintaining evidence needed for criminal and University proceedings. Capital Police will also assist the survivor in obtaining an order of protection or a restraining order issued by a court, or in obtaining a “no contact” order issued by the university. The university will honor a survivor’s request for a “no contact” order, and will comply with court orders. A survivor should provide Capital Police with information about any court orders of protection that have been issued so that the police can assist the university in complying with the order.

Contact Information Includes:

Capital University Police	614.236.6666
Bexley City Police	614.559.4444 or 911
Columbus City Police	614.645.4545 or 911

For survivors who choose to notify the police, it is important to know the immediacy of reporting the incident and the importance of preserving physical evidence, at the crime scene and on the survivor, that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order. In cases of sexual assault, within the first 96 hours is the best time for evidence to be collected. Under certain circumstances, it may be collected after this time frame. If possible, a survivor of sexual assault should not wash, douche, use the toilet or change clothing before a medical/ forensic examination. The gathering of physical evidence can provide important evidence

and support of criminal charges if the survivor chooses to make a criminal report. Survivors who are reporting an immediate assault can receive a sexual assault evidence collection exam at most hospitals, and such exam can be paid for by a fund within the Ohio Attorney General's office rather than by insurance. Two area hospital that are nearby are:

Mount Carmel East Hospital
6001 E. Broad Street
Columbus, OH 43213
614-134-6000

OhioHealth Grant Medical Center
111 S. Grant Avenue
Columbus, OH 43215
614-566-9000

Due to the sensitive nature of sexual misconduct, a Reporting Party may choose to turn to Residential Life staff or another staff/faculty member with whom they are comfortable. Information disclosed by a Reporting Party to any University faculty or staff or Residential Life employee must be shared with the Title IX Coordinator and/or Title IX Deputy Coordinator and possibly others to address the complaint.

See "Information and Resources" (APPENDIX C) for additional resource information regarding sexual assault and violence.

Individuals with complaints of this nature also have the right to file a formal complaint with the United States Department of Education:

Office of Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: 800.421.3481
TDD# 877.521.2172
Email: OCR@ed.gov
Web: <http://www.ed.gov.ocr>

Any **false report** of behavior or incidents alleging sexual misconduct, with intent to mislead, is a violation of this policy. A good faith complaint that results in a finding of not responsible is not considered a false or fabricated report.

D. Employee Responsibility

Responsible Employees: For the purposes of this policy, a "responsible employee" is a University employee who is obligated to report incidents of sexual misconduct. **It is the policy of this University that all employees (including student employees), who are not confidential reporting resources, are responsible employees.**

When an individual tells a responsible employee about an incident of sexual misconduct, that individual has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A responsible employee must report to the Title IX Coordinator or Deputy Title IX Coordinator all relevant details about the alleged sexual misconduct shared by the

Reporting Party and that the University will need to determine what happened – including the names of the survivor and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University's response to the report. A responsible employee should not share information with law enforcement without the survivor's consent unless the survivor has also reported the incident to law enforcement.

Before a Reporting Party reveals any information to a responsible employee, the employee should make every reasonable effort to ensure that the Reporting Party understands the employee's reporting obligations – and, if the individual wants to maintain confidentiality, direct the individual to confidential resources as designated in this policy.

If the Reporting Party wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the Reporter that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the individual's request for confidentiality.

Responsible employees will not pressure an individual to request confidentiality, but will honor and support the individual's wishes, including for the University to fully investigate an incident. By the same token, responsible employees will not pressure an individual to make a full report if the individual is not ready to do so.

E. Federal Statistical Reporting Obligations

As required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act), Capital University Police and Law School security maintain a daily crime log that is available to the public for inspection. The crime log includes all incidents reported to the police department or security personnel. No personally identifying information of any party involved will be shared in the daily crime log.

Also pursuant to the Clery Act the University annually prepares and disseminates an Annual Security Report in which it shares aggregate data as required by the law. Certain campus officials – those deemed a Campus Security Authority (or CSA) – have a duty to report sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes. Statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses need to be given) for publication of the Annual Security Report. No personally identifying information is included in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety. Mandated federal reporters (the CSAs) include: student/conduct affairs, campus law enforcement, local police, coaches, athletics directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for

student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category.

F. Federal Timely Warning Obligations

Reporters of sexual misconduct should be aware that University administrators must issue timely warnings for incidents reported to them that are confirmed to pose a substantial and on-going threat of bodily harm or danger to member of the campus community. The University will ensure that a Complainant's name and other personally identifying information are not disclosed, though still providing enough information for community members to make safety decisions in light of the danger.

G. Duty to Report

Ohio has a general reporting statute, Ohio Rev. Code § 2921.22, which states "no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities."

H. Reporting of Instances Involving Minors

Sexual harassment, sexual misconduct, or interpersonal violence involving a minor who is a student will be processed consistent with this Policy. Ohio has a reporting statute (Ohio Rev. Code § 2151.421) that requires anyone who knows, or has reasonable cause to suspect, abuse of child "under eighteen years of age, or a person, under twenty-one years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse of neglect of the child." Any violations should be reported to the Title IX Coordinator and the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.

IV. Procedures (See also Appendix B: Flowchart of Investigation Process)

A. Timeline for Sexual Misconduct/Title IX Investigation Process

The timelines outlined below are anticipated timeframes in cases that do not present extraordinary circumstances, such as the temporary unavailability of evidence or witnesses. The University will inform parties of more specific dates to the extent it can and of any deviations in previously established timelines.

Interim Measures: If warranted, as soon as reasonably practicable under the circumstances.

Commencement of Investigation: Ordinarily, within seven (7) working days of receipt of the complaint.

Notice of Outcome: Ordinarily, within sixty (60) working days of receipt of the complaint.

Deadline for Filing an Appeal: The appealing party must submit an appeal within five (5) working days of the receipt of the written decision.

Decision on Appeal: Ordinarily, within ten (10) working days from the date any response to an appeal was due.

Informal Administrative Resolution Process: After the initial investigation, and prior to a finding of Responsible or Not Responsible, the parties may have an opportunity to resolve the complaint through an Informal Administrative Resolution process. The informal process may be utilized only when the Title IX Coordinator determines that this is a suitable option for resolving the concern, and both the Complainant and Respondent agree to use the process. The informal process cannot be used to resolve sexual assault (non-consensual sexual intercourse or contact) or sexual violence allegations.

B. Interim Measures

Through the publication of this policy, at the time of reporting a violation to the Title IX Coordinator or Deputy Coordinator, the University provides written notification to Complainants about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or other protective measures. The University will make such accommodations or provide such protective measures if the University deems it necessary and appropriate or if the Complainant or Respondent makes such a request to the Title IX Coordinator or Deputy Coordinator and if the measures are reasonably available, regardless of whether the Complainant chooses to report the sexual misconduct to Capital Police or local law enforcement.

Interim Measures: services, accommodations, or other assistance that the University puts in place after receiving notice of alleged sexual misconduct but before any final outcomes—investigatory, disciplinary, or remedial—have been determined. The following are examples of interim measures and are not expected to be all-inclusive:

- Academic accommodations for Complainant or Respondent.
- Medical and mental health services, including counseling, for Complainant or Respondent.
- Change in university housing.
- Assistance in finding alternative housing.
- Assistance in arranging for alternative University employment arrangements and or changing work schedules.
- No Contact directive pending the outcome of an investigation. Such a directive serves as a notice to the parties that they must not have verbal, electronic, written, or third party communication with one another.
- Provide escort so the individual can move safely between school programs and activities
- Respondent placed on administrative leave (employee) or interim suspension (student).
- Voluntary leave of absence.
- University-imposed leave or separation.

Appropriate measures will also be taken to avoid retaliatory action.

The University will maintain as confidential any accommodations or protective measures provided, to the extent that maintaining such confidentiality will not impair the ability of the University to provide the accommodations or protective measures.

C. Investigation Process

Both the Complainant and the Respondent may choose to have an advisor of their choice to provide assistance during the investigation and resolution process. The parties may select whomever they wish, from inside or outside the university community, to serve as their advisor as long as the advisor is available and not otherwise involved in the resolution process, such as serving as a witness. Either party may also choose to proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present. Advisors are expected to advise ethically, with integrity and in good faith. The advisor may consult with the advisee quietly or in writing or outside during breaks in the meeting, but may not speak on behalf of the advisee. Any advisor who steps outside of this defined role will be given one warning and then be asked to leave the meeting. (A substitute advisor will not be permitted at this meeting, and the meeting will typically continue without the advisor present.) The advisor may be allowed to attend additional investigative meetings at the discretion of the Title IX Coordinator.

If the University becomes aware of a possible sexual misconduct violation, the University may conduct an investigation and impose sanctions for the protection of the University community. The University reserves this right even if a Complainant decides not to pursue charges, either criminally or through the University's process.

During the investigatory period, the University will take steps to assure that the alleged misconduct does not continue and that the Complainant is safe from further improper conduct and all parties are safe from retaliation.

The Title IX Coordinator will appoint two investigators who will conduct a thorough, reliable, and impartial investigation of the reported allegation. Any official designated to conduct an investigation will, at a minimum, receive annual training on the issues related to sexual misconduct and on how to conduct an investigation and process in a manner that is equitable and impartial.

Investigation Steps:

- 1. Preliminary Investigation:** The Title IX Coordinator will meet with the Complainant or Reporting Party to gather initial information about the allegation. The Title IX Coordinator will gather information for a possible formal complaint which should include: the name of the Respondent, if known; the name of the Complainant (victim/survivor) of the alleged conduct; a description of the alleged conduct; the date, approximate time and location of the alleged conduct, if known.

Before proceeding further, the Title IX Coordinator will determine whether the conduct or language referenced in the complaint would, if true, constitute a violation of this policy.

- If the conclusion is that the conduct or language referenced in the complaint, even if true, would **not** constitute a violation of this policy, there will be no further

investigation. The University will take any steps needed to remedy inappropriate conduct that does not constitute a violation of this policy.

- If the conclusion is that the conduct **would**, if true, constitute a violation of this policy, the investigation will proceed. A **Notice of Investigation** will be sent to both the Complainant and Respondent.

2. Investigation: The formal investigation process will proceed as follows:

- Upon receipt of a **Notice of Investigation**, the investigators will interview the Respondent and Complainant.
- The investigators will develop the charge stating the specific aspect of the policy alleged to have been violated and the Complainant and Respondent will both be given **Notice of the Charge**;
- Either party may provide a **written response** to the Notice of the Charge;
- In conducting the investigation, the investigators will also gather other pertinent information and conduct witness interviews, and follow up with the Complainant, Respondent, and witnesses as needed;
- While the allegation is under investigation, the investigators will encourage all parties and witnesses to provide any additional information (including statements, e-mails, documents, or other facts) that may assist the investigation. The investigators will continue to receive and review this information until the investigation is closed;
- Upon completion of the investigation, the investigators will compile a **draft report** that will include a narrative of the interviews that took place and other pertinent information considered.
- Both the Complainant and Respondent will have the opportunity to review the draft report and provide additional information or responses for consideration by the investigators.
- After receiving any responses and investigating any further information provided, the investigators will submit the report, with findings and recommendations, to the Title IX Coordinator for review and to **finalize the report**.

D. Administrative Disposition of Investigative Findings, Conclusions and Recommendations:

The Title IX Coordinator shall forward the **final investigation report**, with findings, recommendations for resolution, sanctions, or other appropriate action, to the respective Vice President, Provost, or Law School Dean for **disposition**. The possible outcomes are:

1. **Violation/Responsible and Sanction:** If the Vice President's, or Provost's, or Law School Dean's conclusion is that it is more likely than not (a preponderance of the evidence) that a violation of this policy has occurred, the Respondent will be advised in writing (**Notice of Outcome**) of the finding of a violation, the sanction, and the procedure for appeal. The Complainant will simultaneously be advised in writing (**Notice of Outcome**) that the investigation is complete, a violation was found, the sanctions against the Respondent, and the procedure for appeal.
2. **No Violation/Not Responsible:** If the investigation does not support a violation of any University policy, both the Complainant and the Respondent will be simultaneously advised in writing of this outcome (**Notice of Outcome**) and the procedure for appeal.

E. Appeals:

1. Timeline for Appeal

If the Complainant or Respondent disagrees with the outcome of the investigation (either the finding or sanctions imposed), either one may submit an **appeal**. The appealing party must submit the appeal within five (5) working days from the date the written decision is sent out. The appeal must be submitted in writing to the Title IX Coordinator. An appeal may not be filed on behalf of a Complainant or Respondent by a third party. If no appeal is submitted within the five (5) working days, the administrative disposition of the investigation becomes final and the sanctions/recommendations shall be implemented.

The Title IX Coordinator does not decide the appeal but acts as the administrator of the appeal process – e.g., providing notice to the parties and forwarding the appeal documentation to the **Appeals Officer** designated by the University President.

2. Appeals Process

- a. **Request for Appeal:** The written request for appeal must identify the reasons and evidence supporting the appeal, state the result sought, and be submitted to the Title IX Coordinator within the appeal timeline set forth in E(1) above. The four possible grounds for appeal are as follows:
 - i. A procedural error occurred that significantly impacted the outcome of the investigation (e.g., material deviation from established procedures);
 - ii. New evidence unavailable during the original investigation that could substantially impact the original finding or sanction. The appealing party must submit a summary of the new evidence and its potential impact must be included;
 - iii. Specific bias of the investigators; or
 - iv. The sanctions imposed are substantially disproportionate to the severity of the violation.

- b. Within three (3) working days, the Title IX Coordinator will provide a copy of the written appeal request to the non-appealing party, who may submit to the Title IX Coordinator a **written response** to the appeal request within five (5) working days from the date the appeal request was sent out.
- c. The Title IX Coordinator will forward the report, the file, the request for appeal, and the response (if any) to the **Appeals Officer** designated by the University President.
- d. The Appeals Officer shall review the appeal and determine if it satisfies the grounds for appeal. The following are the potential **final outcomes**:
 - i. If the appeal does not meet the grounds for an appeal, the Appeals Officer will issue both parties a written decision that the appeal did not meet the grounds for the appeal and that the underlying decision was decided reasonably and appropriately. The Appeals Officer's decision to deny the appeal is not appealable and the underlying decision will be the final outcome.
 - ii. If the Appeals Officer determines that a material procedural error occurred, the Appeals Officer may return the complaint to the investigators and appropriate Vice President, Provost, or Law School Dean, with instructions to cure the error. The result of the revised decision of the investigators and the appropriate Vice President, Provost, or Law School Dean is not appealable and becomes the final outcome.
 - iii. If the Appeals Officer determines that new evidence should be considered, the Appeals Officer may review the new evidence or refer the case to the investigators to reconsider in light of the new evidence only. The investigators will review the new evidence and submit an addendum to the original report for review by the appropriate Vice President, Provost, or Law School Dean. The reconsideration of the investigators and appropriate Vice President, Provost, or Law School Dean is not appealable and becomes the final outcome.
 - iv. If the Appeals Officer determines that the investigators were biased, the Appeals Officer may refer the case to a new investigator to review the evidence and submit a new report within thirty (30) calendar days to be reviewed by the appropriate Vice President, Provost, or Law School Dean. The charge of bias must be rooted in a specific bias of the investigator(s) rather than a general objection (e.g., race, religion, gender, etc., generally). The reconsideration of the investigation by the new investigator and the appropriate Vice President, Provost, or Law School Dean is not appealable and becomes the final outcome.
 - v. If the Appeals Officer determines that the sanctions imposed are disproportionate to the severity of the violation, the Appeals Officer may increase, decrease or otherwise modify the sanctions. The Appeals Officer's decision is not appealable and will be the final outcome.

- e. **Final Outcome:** Typically, within ten (10) working days, the Appeals Officer will issue the decision. Both the Complainant and Respondent will be advised in writing of the Appeal Officer's decision (**Notice of Final Outcome**). If a new investigation was ordered, additional time may be needed to complete that investigation and reach the final outcome.

F. Sanctions: Sanctions are actions the University will take against the Respondent that are proportionate to the violation(s). Sanctions may be issued individually, or a combination of sanctions may be imposed. The determination of sanctions is based upon a number of factors, including: the harm suffered by the Complainant; any ongoing risk to either the Complainant or the University community posed by Respondent; the impact of the violation on the University community, its members, or its property; any previous sexual misconduct violations; any pattern of sexual misconduct behavior; and any mitigating or aggravating circumstances.

When the Respondent is an employee, examples of sanctions include:

- Warning – Written or Verbal
- Performance Improvement Plan
- Mandatory Training or Education
- Probation
- Demotion
- Suspension (paid or unpaid)
- Termination (If for a faculty member, the additional procedures set forth in the *Faculty Handbook*, Section 7.5 Dismissal for Cause, will be followed.)

When the Respondent is a student, examples of sanctions include:

- Monetary Fines/Restitution
- Warning – Written or Verbal
- Mandatory Training or Education
- Restricted Access
- Restriction from extracurricular and/or co-curricular activities
- Alcohol/Drug/Anger Assessment
- Residence Hall Probation or Dismissal
- Disciplinary Probation
- Suspension
- Dismissal
- Withholding Diploma
- Revocation of Degree
- Organizational Sanctions

First time student Respondents who are found responsible for nonconsensual sexual intercourse may receive a sanction to include at minimum the following:

- Suspended from the University for a least one semester or up to dismissal;

- Not allowed on University property during the period of suspension, or permanent exclusion from University property if dismissed;
- Contact with the survivor is strictly forbidden;
- Must submit documentation of a qualified assessment of the student's ability to return to the University without threatening the safety of others.

Second time student Respondents who are found responsible for nonconsensual sexual intercourse may receive a minimum of the following sanction:

- Dismissal from the University;
- Permanent exclusion from University property.

Separate from the University process, individuals should be aware that criminal liability can be incurred from a sexual misconduct violation in penalties established in the Ohio Revised Code for all offenses deemed criminal. (See Appendix D: Ohio Criminal Law Violations.)

- G. Informal Administrative Resolution Process:** The informal process may be utilized only when the Title IX Coordinator determines this is a suitable option for resolving the concern, and both the Complainant and Respondent agree to use the process. Informal resolution may be used where, based on the conduct at issue, the likely outcome in the full formal investigatory process would not alter the individual's or organization's status with the University. Sexual assault (non-consensual sexual intercourse and contact) and sexual violence allegations cannot be resolved using the informal process. The University does not require any sexual misconduct complaint to utilize the informal process.

The Informal Administrative Resolution Process will be facilitated by the Title IX Coordinator or designee. The resolution achieved in each incident will be based upon the specific incident under consideration and the resolution must be agreed upon by all participants. The Title IX Coordinator or designated facilitator will work with the Title IX Team to ensure that all complaints are handled in a consistent manner. The outcome of the Informal Administrative Resolution Process will consist of a written report of the outcome that includes specific details about the complaint and any resolution. If the issues are not resolved, the report should include a statement of the facts that are under dispute, which may form the basis for the complaint in the formal process.

Because the outcomes of the informal resolution conversations are mutually developed and agreed upon by the parties involved, an appeal of the process and its result is not permitted. If the parties are unable to agree on the outcomes of the informal resolution proceeding, any party may request that the matter be resolved through the formal process.

If information is shared that clearly suggests that this policy's definition of non-consensual sexual intercourse, non-consensual sexual contact, or domestic or dating violence has been violated, then the informal resolution process must end immediately and the formal process initiated.

The University reserves the right to take additional actions that it deems necessary to ensure that the alleged misconduct ends, its recurrence is prevented, the University community is protected, and the outcome is appropriate and consistent.

No statements made during the informal resolution process may be used during the formal process. Informal resolution is an administrative process and matters resolved through this method of resolution are not part of a student's conduct file, except that such records can be used in reviewing any additional sexual misconduct proceedings or developing sanctions in such proceedings, and would then become part of a student's conduct record. For employees, informal resolution records would be kept by the Title IX Coordinator in the same manner as findings from the formal investigation process.

V. Records and Privacy

All proceedings under this policy are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, and University policy.

Student Records: The Title IX Coordinator will keep appropriate records of sexual misconduct complaints and outcomes. Access to these records will only be granted with the consent of the individual(s) involved, or as required by law in a legal proceeding, or to address a pattern of repeat behavior. Complaints under this policy that result in a finding of responsibility are made part of a student's disciplinary conduct record. Such records shall be used in reviewing any further conduct, or developing sanctions. Student conduct files are confidential as they are protected under the Family Educational Rights and Privacy Act. In general, no information shall be released from the proceedings under this policy except as required or permitted by law and University Policy, or with the consent of the student(s). FERPA allows schools to disclose student records, without consent, in situations including, but not limited to: school officials with legitimate educational interest, other schools to which a student is transferring, to comply with a judicial order or lawfully issued subpoena, to parents when there is a health or safety emergency involving the student, to parents when the student has committed a disciplinary violation with respect to use or possession of alcohol or a controlled substance and the student is under 21 years of age at the time of the disclosure, to the victim of an alleged perpetrator of a crime of violence or a non-forcible sexual offense concerning the final results of a disciplinary hearing. Please see the University's Student Records policy for further information. Student conduct files are maintained in accordance with the University's Record Retention Policy, typically for a period of seven (7) years.

Students who declare an interest in studying abroad are subject to a conduct record check. Information that is shared with the International Education Office includes, but is not limited to, determinations of sexual misconduct violations. It is within the sole discretion of the University to determine whether a student who has violated University policy is eligible to study abroad. Consideration and qualification for study abroad are not disciplinary determinations but may be affected by a student's disciplinary record.

Employee Records: The University will keep appropriate records of complaints and outcomes. In order to protect the innocent and to assure Complainants and Respondents that there will be no recrimination or retaliation, these records will be closed and kept by the Human Resources

Department and the Title IX Coordinator. Access to these records will only be granted with the consent of the individual(s) involved, or as required by law in a legal proceeding, or to address a pattern of repeat behavior.

The Title IX Coordinator should be alert to repetitive patterns of documented harassment over time. Should a possible pattern of behavior be detected, the matter will be brought to the attention of the Title IX Team and a course of action determined after such consultation. A pattern of behavior may be considered in determining recommendations for sanctions.

VI. Resources

Appendix A: Rights of Complainants and Respondents

Appendix B: Flowchart of Investigation Process

Appendix C: Information and Resources

Appendix D: Ohio Criminal Law Definitions

VII. Related University Policies

Nondiscrimination Policy

Student Records Policy

VIII. History

This policy replaces the University's former Sexual Harassment Policy (1990) and the Student Sexual Misconduct Policy (Student Handbook 2014-15 and prior years).

June 24, 2015: Policy Approved by President's Cabinet as the University's interim Title IX policy on Sexual Misconduct pending faculty governance review and comment.

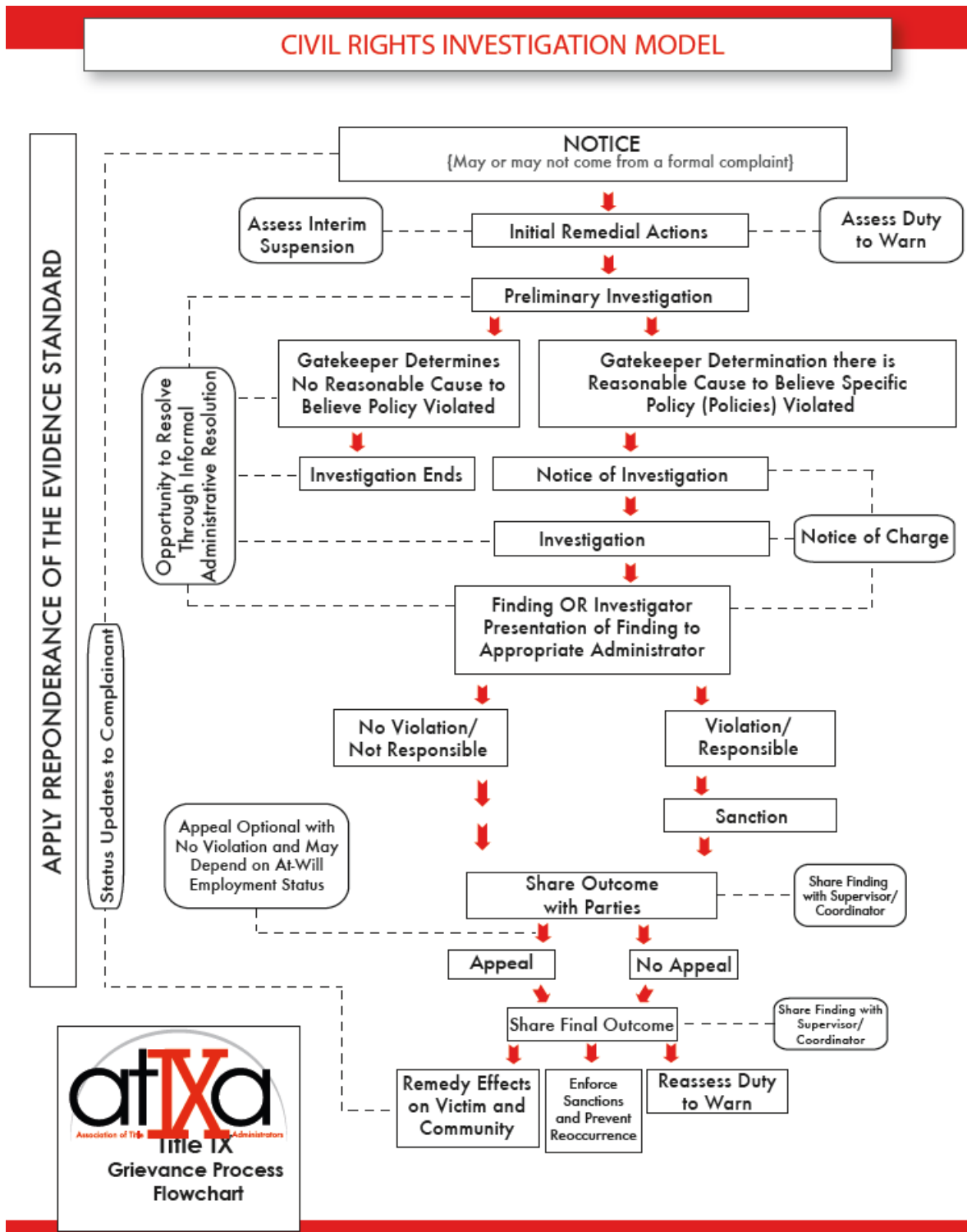
July 13, 2016: Policy revised by the University's Title IX team

August 23, 2017: Policy revised by the University's Title IX team

APPENDIX A: Rights of Complainants and Respondents

- To have all allegations of sexual misconduct taken seriously and to be given a timely and respectful response.
- To be informed of all allegations of sexual misconduct in a timely and respectful manner.
- To be informed of immediate measures for medical care and preservation of evidence if applicable.
- To be informed about University and community support services and resources.
- To be told about criminal and University reporting options and the right to be assisted by University authorities.
- To learn about possible interim or protective measures, including but not limited to, change in class schedules, alternative housing assignments, change in employment, and restricted contact (No Contact orders).
- To have related policy, process and support information explained clearly and fully at every stage of the University process.
- To suggest names of witnesses to be interviewed during the investigation process.
- To be informed in writing of the outcome of the University investigation and appeal procedure, with the Complainant and Respondent to be informed at the same time.
- To be notified of any change in the investigation results prior to when they become final.
- To be notified when the results become final.

APPENDIX B: Flowchart of Investigation Process



APPENDIX C: Information and Resources

What to do if you are a victim/survivor of sexual assault:

- Get to a safe place.
- Contact someone who can help:
 - Columbus or Bexley Police Department - 911 for immediate threat
 - Capital Police Department - 614.236.6666
 - Law School Security Desk – 614.236.6161
 - SARNCO (Sexual Assault Response Network of Central Ohio) 24-hour-rape helpline at 614.267.7020
 - RAINN (Rape, Abuse and Incest national Network) 800.656.4673
 - A friend
- Seek medical attention. Trained volunteer advocates are available at local emergency rooms. Sexual Assault Nurse Examiners, who specialize in collecting evidence, are also available at many emergency rooms.
- For the best evidence collection results: consider waiting to shower, bathe, douche, brush your teeth, urinate, defecate, smoke or change clothes until after going to the hospital. If you need to change your clothes, consider bringing the clothes you were wearing at the time of the assault with you, in a paper bag if possible.
- Consider calling a friend, family member, or religious leader whom you trust.
- Give yourself time to heal. What happened to you is not your fault.

How to support a friend who has been sexually assaulted:

- Listen. Focus on what your friend is saying without thinking about your response. Take a moment to gather your thoughts before responding - a little silence is okay.
- Remind your friend that it is not their fault.

Here are some examples of what you should NEVER say:

- What were you wearing?
 - What did you do to lead them on?
 - Were you drunk?
 - Were you flirting with him? Did you give him the wrong impression?
 - Why didn't you fight back?
 - Are you lying?
 - Avoid any variation of those phrases that puts the blame on them.
- Ask questions in a sensitive way.
 - A good way to communicate your intention before asking a question is, "I'm going to ask you some questions because I want to better understand how I can help, is that okay?"
 - It's generally a good idea to avoid asking questions that start with "why", because it seems so loaded with judgment. A better way to start is "help me understand ..."

- Honor your friend's autonomy.
 - At the time of the assault, your friend was violently stripped of the ability to make decisions, to be in control of their life.
 - It isn't your intent, but when you say that they "need" to do something, you are taking away their power, just as their perpetrator did.
 - Asking with genuine curiosity if they have ever considered talking to a counselor is a great place to start, but make sure you are open to whatever answer they give you.

- Understand that how a survivor responds is complex and varied.
 - Everyone experiences sexual assault in different, complex ways. Your friend's response will be multi-layered and their recovery will not follow a straight path. A survivor may feel completely numb one day and angry the next.
 - Survivors frequently experience severe feelings of anxiety, stress, or fear, known as Post-Traumatic Stress Disorder (PTSD). This neurobiological impact may be noticeable in the survivor's inability to recall information in a linear manner. Recollection of the assault may be communicated in "bits and pieces" as the survivor struggles to recall a clear and comprehensive memory of the incident.
 - It helps the survivor to go through three sleep cycles to be able to provide clear details. However, it may take much longer for a survivor to fully recall the traumatic incident in its entirety.

- Help to establish safety.
 - Physical safety will become a major factor in the way that your friend is able to re-navigate their life. Are they afraid to walk to class or work alone? Can they feel safe getting in and out of the car, on the bus, in a crowd, or alone?
 - Offer to accompany your friend on whatever errand or task seems daunting or scary. When you walk your friend home, turn on the lights in their apartment before they walk in.

- Offer resources.
 - But only if your friend wants them – ask first. If they aren't interested, don't offer resources.
 - If your friend is interested, here are a few to get started:
 - SARNCO (Sexual Assault Response Network of Central Ohio) 24-hour-rape helpline: 614.267.7020
 - RAINN (Rape, Abuse and Incest national Network): 800.656.4673
 - BRAVO (Buckeye Region Anti Violence Organization): 866.862.7286

- Take care of yourself.
 - To fully help your friend, you need to take care of yourself: sleep, eat well, try to stick to some type of routine, and/or talk with a confidential friend or support person.

- Consider contacting any of the above resources to learn how you can best support your friend and to address the feelings you are experiencing. Caring for a loved one who has survived a trauma can be exhausting and emotionally draining.

Alcohol/Drugs and Sexual Assault.

Alcohol and drugs are involved in a large percentage (estimated up to 85%) of sexual assault on college campuses. Drugs and alcohol can lower inhibition and impact the ability to make decisions, including whether or not to engage in sexual activity with someone else.

Alcohol and drugs can interfere with communication and increases misperception about the sexual intentions of others.

A person who is incapacitated by alcohol or drugs is not able to give consent.

Drug-facilitated sexual assault involves the intentional use of drugs or alcohol to incapacitate another to help facilitate sexual assault. Specific information includes:

- Drugging someone on purpose is considered a felony in most states. This includes someone putting a drug or alcohol into your drink or food without your knowledge.
- Some drugs used to commit sexual assault include Rohypnol ("roofies"), GHB ("liquid ecstasy") and Ketamine ("special K"). Recreational drugs may also be used to facilitate assault.
- Many of these drugs are tasteless, odorless, colorless and difficult to detect in a drink. They are just as dangerous when put into water as they are in alcohol.
- These drugs may be taken voluntarily by the sexual assault survivor (and then the offender takes advantage of resulting vulnerability - seeking out the most wasted person in the room).

Alcohol is the most commonly used substance to facilitate rape.

A person who chooses to use alcohol or drugs, does not ask or deserve to be sexually assaulted.

Bystander Intervention:

Bystander Intervention is a philosophy and strategy for prevention of various types of violence. It involves safe and positive options to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking.

What can bystanders do to make a difference?

- **Believe someone** who discloses a sexual assault, abusive relationship, or experience with stalking or cyberstalking.

- **Be respectful** of yourself and others. Make sure any sexual act is OK with your partner if you initiate.
- **Watch out for your friends** – if you see someone who looks like they are in trouble, ask if they are okay. If you see a friend doing something shady, say something.
- **Speak up** – if someone says something offensive, derogatory, or abusive, let them know that behavior is wrong and you don't want to be around it.

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 Other Bystander Intervention Strategies:

- **Silent Stare** - A disapproving look can be powerful.
- **Humor** - Reduces the tension of an intervention and makes it easier for the person to hear you.
- **Group Intervention** - There is safety and power in numbers.
- **We're friends, right....?**
 - Reframes the intervention as caring and non-critical.
 - Example: "Hey Chad.....as your friend I've gotta tell you that getting a girl drunk to have sex with her isn't cool, and could get you in a lot of trouble. Don't do it."
- **Distraction:**
 - Snaps someone out of their "sexist comfort zone." Example: Ask a man harassing a woman on the street for directions or the time.
 - Allows a potential target to move away and/or to have other friends intervene. Example: Spill your drink on the person or interrupt and start a conversation with the person.

(Adapted from Men Can Stop Rape, www.mencanstoprape.org.)

Risk Reduction Tips:

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual assault are responsible for those actions, these suggestions may help to reduce the risk of experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.

(From ATIXA Model Sexual Misconduct Policy)

Recognizing Warning Signs of Relationship Abuse:

Relationship abuse is not uncommon, and it is a serious issue. Relationship abuse is real and happens more often than you think.

Relationship abuse is not just violent acts. Relationship abuse is manifested in physical, emotional, psychological, and verbal acts with the desired outcome being control over another person. Although most commonly a crime against women, anyone can be a victim of abuse and it can occur in both heterosexual and same sex relationships.

Relationship abuse is not a private matter. Isolation can be one of the most powerful tools an abuser can use to control a partner. All too often we fail to get involved because we either think their relationship is not our business, or we are afraid and don't know who to turn to for help. Unfortunately, this only reinforces the abuser's sense that they have the right to treat a partner that way. Only by speaking out and recognizing abuse as an unacceptable social behavior can the cycle be broken. (From itsabuse.com)

Signs of an Abusive Relationship:

There are many signs of an abusive relationship. Here are some of them:

- One partner criticizing, humiliating or yelling at the other
- One partner treats the other so badly that it is embarrassing in front of friends or family.
- One partner has a bad and unpredictable temper.
- One partner acts excessively jealous and possessive.
- One partner keeps the other from seeing friends or family.
- One partner threatens to commit suicide if the other leaves.
- One partner forces the other to have sex.
- One partner is constantly checking up on the other.

Healthy relationships are based on equality and respect. Partners make decision together and openly discuss issues like relationship problems and sexual choices. They enjoy spending time together, but can be happy apart.

Unhealthy relationships are based on attempts to control the other person. One person tries to make most of the decisions. They may pressure a partner about sex or refuse to see how their actions can hurt. In an unhealthy relationship, individuals may feel like they should spend time only with their partner.

Abusive relationships are based on power and control. One person makes all of the decisions – about sexual choices, friend groups, boundaries, even what’s true and what’s not. Partners spend all of their time together and one may feel like they cannot talk to others.

(From loveisrespect.org)

APPENDIX D: Ohio Criminal Law Definitions

The definitions in Ohio criminal law are not the definitions of violations under this policy; this is provided as information about the state provisions for consideration when filing a criminal complaint.

Chapter 2907 of the Ohio Revised Code contains the criminal law definitions in Ohio regarding various sex offenses. Below are the Ohio general definitions of sex offenses (§2907.01) and the Ohio definition of rape (§2907.02). All of the Ohio definitions for sex offenses in Chapter 2907 of the Ohio Revised Code can be accessed at: <http://codes.ohio.gov/orc/2907>

Chapter 2907: SEX OFFENSES

2907.01 Sex offenses general definitions.

As used in sections 2907.01 to [2907.38](#) of the Revised Code:

(A) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

(B) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

(C) "Sexual activity" means sexual conduct or sexual contact, or both.

(D) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

(E) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

(1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.

(2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.

(3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.

(F) When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is "obscene" if any of the following apply:

(1) Its dominant appeal is to prurient interest;

(2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;

(3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;

(4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;

(5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

(G) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(H) "Nudity" means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

(I) "Juvenile" means an unmarried person under the age of eighteen.

(J) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.

(K) "Performance" means any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.

(L) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:

(1) When the parties have entered into a written separation agreement authorized by section [3103.06](#) of the Revised Code;

(2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage, or legal separation;

(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

(M) "Minor" means a person under the age of eighteen.

(N) "Mental health client or patient" has the same meaning as in section [2305.51](#) of the Revised Code.

(O) "Mental health professional" has the same meaning as in section [2305.115](#) of the Revised Code.

(P) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.

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2907.02 Rape.

(A)

(1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:

(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.

(c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

(2) No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

(B) Whoever violates this section is guilty of rape, a felony of the first degree. If the offender under division (A)(1)(a) of this section substantially impairs the other person's judgment or control by administering any controlled substance described in section [3719.41](#) of the Revised Code to the other person surreptitiously or by force, threat of force, or deception, the prison term imposed upon the offender shall be one of the prison terms prescribed for a felony of the first degree in section [2929.14](#) of the Revised Code that is not less than five years. Except as otherwise provided in this division, notwithstanding sections [2929.11](#) to [2929.14](#) of the Revised Code, an offender under division (A)(1)(b) of this section shall be sentenced to a prison term or term of life imprisonment pursuant to section [2971.03](#) of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A)(1)(b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section [2971.03](#) of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this

division. If an offender under division (A)(1)(b) of this section previously has been convicted of or pleaded guilty to violating division (A)(1)(b) of this section or to violating an existing or former law of this state, another state, or the United States that is substantially similar to division (A)(1)(b) of this section, if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, or if the victim under division (A)(1)(b) of this section is less than ten years of age, in lieu of sentencing the offender to a prison term or term of life imprisonment pursuant to section [2971.03](#) of the Revised Code, the court may impose upon the offender a term of life without parole. If the court imposes a term of life without parole pursuant to this division, division (F) of section [2971.03](#) of the Revised Code applies, and the offender automatically is classified a tier III sex offender/child-victim offender, as described in that division.

(C) A victim need not prove physical resistance to the offender in prosecutions under this section.

(D) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

Evidence of specific instances of the defendant's sexual activity, opinion evidence of the defendant's sexual activity, and reputation evidence of the defendant's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, the defendant's past sexual activity with the victim, or is admissible against the defendant under section [2945.59](#) of the Revised Code, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(E) Prior to taking testimony or receiving evidence of any sexual activity of the victim or the defendant in a proceeding under this section, the court shall resolve the admissibility of the proposed evidence in a hearing in chambers, which shall be held at or before preliminary hearing and not less than three days before trial, or for good cause shown during the trial.

(F) Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.

(G) It is not a defense to a charge under division (A)(2) of this section that the offender and the victim were married or were cohabiting at the time of the commission of the offense.

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