

GENDER-BASED MISCONDUCT AND TITLE IX POLICY & PROTOCOL

The University of Akron's Title IX Team is committed to promote a safe and non-discriminatory environment as we discharge our responsibility to ensure compliance with Title IX, the federal law prohibiting discrimination based on sex and gender for all students and employees. Our responsibility involves leading the institution in taking appropriate steps to remedy the discrimination and harassment, prevent its recurrence and demonstrate intolerance of anything that would compromise that responsibility. We affirm our duty to students, faculty and staff to protect all parties from discriminatory conduct. We honor the framework of Inclusive Excellence to execute this responsibility equitably and strive to guarantee equal access to the educational programs and activities and employment for all who learn and work here.

This Policy & Protocol includes:

- Definitions;
- Reporting requirements of UA employees;
- What to report;
- Reporting options for students, faculty and staff;
- Initial outreach and what happens after a report is received;
- On and off campus resources for complainants and respondents;
- A statement of shared rights and responsibilities;
- A grievance process free of bias or conflicts of interest; and
- Description of prevention programs and activities.

The terms **Policy** and **Protocol** will be used to reference the various aspects of this document. For the purposes of this document, these terms may be used interchangeably and refer specifically to the information herein.

Definitions

Advisor

An advisor is someone who provides advice and guidance following a report of conduct that could constitute sexual harassment or conduct prohibited by this protocol and/or during the grievance process. An advisor may, but is not required to be, an attorney. (See information about the Advisor's role below under Grievance Process.)

Coercion

Coercion is conduct that would place a reasonable person in fear and that is used to compel that person to engage in a sexual act.

Examples of coercive conduct include intimidation, unreasonable pressure, and express or implied threats of immediate or future harm to the person or others. Harm may be a physical, emotional, reputational, financial, or other injury to that person or another, or to personal property.

Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment or conduct prohibited by this protocol.

Consent

Consent is a clear, unambiguous, knowing and voluntary agreement, whether verbal or non-verbal, between all parties to participate in each and every sexual act.

- Consent to one sexual act does not imply consent to other or all sexual acts, nor is it consent to the same sexual act at another time.
- Conduct will be considered "non-consensual" if no clear consent is given. The absence of "no" does not mean "yes", nor does silence, passivity, or lack of resistance constitute consent.

- A person has the right to change one’s mind at any time during any sexual act. Consent can be withdrawn at any point, as long as the person clearly informs the other party of the withdrawal, and the sexual act must stop immediately.
- A person who is incapacitated cannot give consent.
- Consent cannot be obtained through coercion or force.
- Consent cannot be inferred from an existing or previous dating or sexual relationship. Even within an existing relationship, the parties must consent to engage in any sexual act each time it occurs.
- Taking drugs or consuming alcohol does not relieve the obligation to obtain consent.
- In determining whether consent was sought and given, all relevant circumstances regarding what the respondent knew, or reasonably should have known will be evaluated.

Deputy Title IX Coordinator

Deputy Title IX coordinators are appointed by the Title IX Coordinator and are responsible for the initial response to reports of misconduct and for supportive measures provided to complainants and respondents following reports. Deputy Title IX coordinators are also responsible for protective measures implemented to ensure the safety of the University community.

Force

Force is the use of physical action, strength, weapons or violence to compel a person to participate in a sexual act.

Formal Complaint

A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment or conduct prohibited by this protocol against a respondent and requesting the University investigate the allegation.

Grievance Process

Grievance process refers to the procedures followed after the filing of a formal complaint. Specifically, the term refers to an investigation, hearing and appeal.

Hearing Officer

Hearing officers are responsible for facilitating the hearing, determining the relevancy of questions during a hearing, weighing the evidence presented, making a determination if the policy has been violated, and providing a written decision of the outcome to the complainant and respondent. The hearing officer will be assigned to a case after a formal complaint has been received and will be appointed by the Title IX coordinator or their designee.

Incapacitation

An incapacitated person lacks the ability to make an informed, rational, voluntary judgment about engaging in any sexual act because they lack the capacity to understand the “who, what, when, where, why, or how” of a situation or interaction. A person can be incapacitated due to a temporary or permanent physical or mental health condition, developmental delay or due to the consumption of drugs or alcohol. An individual who is physically helpless, asleep, unconscious, or unaware that the sexual act is taking place is incapacitated and unable to give consent. When drugs or alcohol are involved, incapacitation is a state beyond drunkenness or intoxication.

Under this Policy, a person has not obtained consent when they initiate a sexual act with another person who they know or reasonably should have known was incapacitated.

Investigator

Investigators are responsible for conducting investigations of prohibited behaviors following a formal complaint as outlined in this protocol. An investigator, or team of investigators, will be assigned to investigate formal complaints at the discretion of the Title IX coordinator or their designee.

Report

A report refers to notice provided to the University alleging sexual harassment or conduct prohibited by this protocol.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or conduct prohibited by this protocol.

Title IX Coordinator

The Title IX Coordinator is responsible for ensuring the University staff, deputy Title IX coordinators, investigators, and decisions makers implement these protocols to protect safety, restore and preserve equal access to education and to deter prohibited behaviors.

Witness

A witness is an individual who may have additional information about a report or formal complaint of conduct that could constitute sexual harassment or conduct prohibited by this protocol.

Prohibited Conduct

This protocol addresses conduct prohibited by Title IX of the Education Amendments Act of 1972 and conduct prohibited by The University of Akron's rules or policies. Where there are differences in prohibited conduct, Section A under the definition addresses conduct prohibited by Title IX and Section B addresses conduct prohibited by The University of Akron's rules or policies.

Limited Amnesty

While the University does not condone underage drinking, drug use, or violation of other University rules/policies, it considers reporting gender-based misconduct to be of paramount importance. To encourage such reporting and adjudication of such conduct, The University of Akron will extend limited amnesty to complainants, respondents, and witnesses. The University will generally not seek to hold the student responsible for a non-violent violation of the law or the Code of Student Conduct, such as personal use of alcohol or drugs, during the time period immediately surrounding the reported behaviors prohibited by the gender-based misconduct protocol.

Sexual Harassment

- A. As prohibited by Title IX of the Education Amendments Act of 1972, sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

Quid Pro Quo

An employee of The University of Akron conditioning the provision of an aid, benefit, or service of The University of Akron on an individual's participation in unwelcome sexual conduct;

Hostile Environment

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or

Sexual Assault, Dating Violence, Domestic Violence, and Stalking

- Sexual assault as defined by the Federal Bureau of Investigation Uniform Crime Reporting System
- Domestic violence as defined by the Violence Against Women Act
- Dating violence as defined by the Violence Against Women Act
- Stalking as defined by the Violence Against Women Act

Sexual assault, domestic violence, dating violence and stalking are further defined below.

Sexual harassment, within the jurisdiction defined by Title IX of the Education Amendments Act of 1972, must occur within locations, events, or circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the sexual harassment occurs or in any building owned or controlled by a student organization officially recognized by The University of Akron.

- B. As prohibited by applicable University of Akron rules and policies, sexual harassment is unwelcome sexual, sex-based, and/or gender-based verbal, written, electronic, and/or physical conduct that unreasonably interferes with an individual's work or educational experience or creates an intimidating, hostile, or offensive working, educational or residential environment. Sexual Harassment includes but is not limited to:

Quid Pro Quo

Explicitly or implicitly conditioning an individual's employment, academic status, or participation in an educational program or activity on the individual's submission to unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature made by a person having power or authority over the provision or denial of that employment, status, program, or activity.

Hostile Environment

Sexual, sex based, and/or gender-based verbal, written, electronic, and/or physical conduct that a reasonable person would consider severe or pervasive and that unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the University's educational programs, employment, and activities, or creates a hostile or offensive work, educational, or campus residential environment.

Examples include, but are not limited to:

- Jokes, unwelcome questions, or comments about a person's sexual history or sexual prowess;
- Unwelcome sexual name calling;
- Jokes or comments about a person's perceived failure to conform to a gender-based stereotype, for example teasing a male whom the individual believes appears feminine;
- Hanging or displaying sexually explicit photographs, drawings, posters, or desktop images in workspaces or public spaces;
- Sending unwelcome e-mails, texts, social media messages/comments of a sexual nature, or denigrating a particular gender identity;
- Jokes intended to deprecate a particular gender;
- Assigning tasks or work to an individual based on a belief related to gender roles, for example "that's women's work"; or
- Comments downplaying or ridiculing an individual's major or decision to attend college based on gender roles, for example "women shouldn't work" or "men can't be nurses."
- Watching or displaying of pornography in public campus locations.

Sexual harassment, within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol, may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the sexual harassment occurs or within circumstances deemed by the University to adversely affect the University or its students and University employees.

Sexual Assault

- A. As prohibited by Title IX of the Education Amendments Act of 1972 and as defined by the Federal Bureau of Investigation Uniform Crime Reporting System, sexual assault is defined as forcible and non-forcible sex offenses and includes:

Rape

The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. Carnal knowledge is defined as the slightest penetration of the sexual organ of the female (vagina) by the sexual organ of the male (penis).

Sodomy

Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.

Sexual Assault with an Object

Use of an object or instrument to unlawfully penetrate, however slight, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An object or instrument is anything used by the offender other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.

Fondling

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental incapacity.

Incest

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent.

Sexual assault within the jurisdiction defined by Title IX of the Education Amendments Act of 1972 must occur within locations, events, or circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the sexual assault occurs; or in any building owned or controlled by a student organization officially recognized by The University of Akron.

- B. As prohibited by The University of Akron's rules or policies, sexual assault is any non-consensual sexual contact, non-consensual sexual intercourse, or sexual offenses prohibited by applicable federal, state, or municipal law.
- Non-consensual sexual contact is any intentional sexual touching, however slight, with any object by a person upon another person, that is without consent and/or by force. Sexual contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner.
 - Non-consensual sexual intercourse is any sexual intercourse however slight, with any object, by a person upon another person, that is without consent and/or by force. Intercourse includes vaginal or anal penetration by a penis, object, tongue or finger, an oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

Sexual assault within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the sexual assault occurs or within circumstances deemed by the University to affect adversely the University or its students and/or University employees.

Dating Violence

Dating violence is an act of violence committed by a person who is or has been in a romantic or intimate relationship with the complainant. The existence of such a romantic or intimate relationship is determined by the length of the relationship; the type of relationship, and the frequency of interaction between the individuals involved in the relationship.

Examples include but are not limited to:

- Threats of physical violence;
- Physical violence, including but not limited to: being slammed or held against a wall; being slapped, kicked, choked or burned; having an arm twisted, fingers bent or other action to intimidate or otherwise coerce behavior;
- Threats or manipulation intended to control a party's behavior or isolate a party from their friends, families or loved ones;
- Limiting or controlling access to money or financial resources; or
- Action that causes a reasonable person to fear harm to self or others.

Dating violence within the jurisdiction defined by Title IX of the Education Amendments Act of 1972 must occur within locations, events, or circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the dating violence occurs; or in any building owned or controlled by a student organization officially recognized by The University of Akron.

Dating violence within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the dating violence occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

Domestic Violence

Domestic violence is an act of violence committed by:

- a. A current or former spouse or intimate partner of the complainant;
- b. A person with whom the complainant shares a child in common;
- c. A person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner.
- d. A person similarly situated to a spouse or the victim under the domestic/family violence laws of the jurisdiction,
- e. Any other person against an adult or youth victim who is protected from that person's act under the domestic/family violence laws of the jurisdiction.

Domestic violence within the jurisdiction defined by Title IX of the Education Amendments Act of 1972 must occur within locations, events or circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the domestic violence occurs; or in any building owned or controlled by a student organization officially recognized by The University of Akron.

Domestic violence within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the domestic violence occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees adversely.

Stalking

- A. As prohibited by Title IX of the Education Amendments Act of 1972 and defined by the Violence Against Women Act, stalking is engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person with similar characteristics, under similar circumstances, to fear for the person's safety or the safety of others or suffer substantial emotional distress.
 - Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking within the jurisdiction defined by Title IX of the Education Amendments Act 1972 must occur within locations, events, or circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the stalking occurs or in any building owned or controlled by a student organization officially recognized by The University of Akron.

- B. As prohibited by University of Akron rules or policies, stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Stalking includes repeatedly actively following, harassing, threatening, or intimidating another including by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.
 - Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the stalking or within circumstances deemed by the University to affect adversely the University or its students and/or University employees adversely.

Discrimination

- A. Title IX of the Education Amendments Act of 1972 prohibits discrimination based on sex.

Discrimination within the jurisdiction defined by Title IX of the Education Amendments Act of 1972 must occur within locations, events, or circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the discrimination occurs; or in any building owned or controlled by a student organization officially recognized by The University of Akron.

- B. The University of Akron prohibits discrimination related to sex including gender identity, gender expression and sexual orientation. The University of Akron grievance procedures for addressing this discrimination are outlined in this policy.

Discrimination within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

Battery

As prohibited by The University of Akron, battery is intentionally, or negligently, causing physical contact or bodily harm to another person because of a person's sex or gender.

Battery within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

Indecent Exposure

As prohibited by The University of Akron, indecent exposure is the exposure of the private or intimate parts of the body in a lewd manner in public or in private when the respondent(s) may be readily observed and/or engaging in sexual activity in public.

Indecent Exposure within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

Sexual Exploitation

As prohibited by The University of Akron, sexual exploitation is taking non-consensual, unjust, or abusive sexual advantage of another.

Examples include, but are not limited to:

- taking, sharing, or copying pictures, video, or audio recording of nudity or sexual activity without consent;
- knowingly allowing another to secretly watch otherwise consensual sexual activity;
- engaging in non-consensual voyeurism;
- sex trafficking or coercing another person to perform a sexual act with an individual or group;
- inducing another to touch or expose their genitals; or
- possession, use, and/or distribution of alcohol or other drug (e.g., Rohypnol, Ketamine, GHB, Burudanga, etc.) for the purpose of engaging in or facilitating any activity prohibited herein.

Sexual Exploitation within the jurisdiction defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

Retaliation

Retaliation occurs when an individual or group intimidates, threatens, coerces, or discriminates against an individual(s) for the purpose of interfering with any right or privilege secured by Title IX or this protocol or because the individual(s) has made a report or formal complaint of a violation of University policy, or testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing. A good faith pursuit of legal action or the exercise of rights protected under the First Amendment does not constitute retaliation.

Requirement to Report

All employees are classified as either responsible (or mandatory) reporters or confidential reporters. Every employee is a mandatory reporter unless specifically identified as "confidential." Mandatory reporters are required to report any instances of gender-based

misconduct of which they become aware, observe, or believe has occurred. Mandatory reporters also include these student employees:

- Teaching Assistants;
- Graduate Assistants;
- Resident Assistants;
- Student employees in the Department of Student Recreation and Wellness Services;
- Student employees in the Department of Student Life including, but not limited to, student employees of: the SOuRCe, Zips Program Network, Student Union Game Room, Marketing, Campus Programs, Serve Akron, Lead Akron, and the Student Union Information Desk;
- Office of Multicultural Development Peer Mentors; and
- Choose Ohio First Peer Mentors.

While responsible employees are required to report all information of which they are aware, they should not ask for specifics, press for more information, or otherwise take action to investigate. All employees with knowledge of a concern must submit a report, even if this means numerous reports will be submitted for the same concern. Faculty and staff planning a public forum as part of an awareness activity (e.g., “Take Back the Night,” “candlelight vigils,” “survivor speak-outs,”) may request an exception from reporting requirements from the Title IX Coordinator in advance of those activities.

Confidential Employees

Only those employees identified below are considered “confidential” sources and are not required to report information obtained during confidential communication:

- The University of Akron Counseling & Testing Center – Simmons Hall
- The University of Akron Wayne Campus – Counseling and Accessibility Services
- The University of Akron Health Services – Student Recreation and Wellness Center
- The University of Akron Clinic for Individual and Family Counseling – Chima Family Center
- The University of Akron Department of Psychology Counseling Clinic – Buchtel College of Arts and Sciences

Confidential employees will be designated as such by the Title IX coordinator and receive written notification of their status.

Timely Warnings and Campus Security Authorities

If a report of sexual misconduct or any crime of violence indicates an immediate threat to the health or safety of persons on campus or an on-going serious or continuing threat to the campus community, a timely warning will be issued to the campus community by The University of Akron Police. The purpose of a timely warning is to enable persons to protect themselves, heighten safety awareness and seek information that may lead to an arrest and conviction of the perpetrator. When possible, complainants will be advised if the deputy Title IX coordinator anticipates a timely warning may be issued. These warnings do not include the name or identifying information of the individual reporting the concern.

Campus Security Authorities are employees designated by the Director of Clery Compliance and Crime Analysts who are required to report crime, including but not limited to Title IX offenses, to UAPD to ensure accurate information about campus safety is available to the community. The CSA reports will be included in the University’s annual Report of Crime Statistics and issuance of a safety advisory or other emergency notification, where appropriate. Campus Security Authorities are staff members who have significant responsibility for student or campus activities. They include the Dean of Students and deputy Title IX coordinator for students; staff within the Dean of Students Office; most managerial staff in the

Division of Student Affairs; Residence Life and Housing staff, including resident assistants; advisors to registered student organizations; the Director and Associate Directors of Athletics and athletic coaches.

The University of Akron Police Officers receiving a report of gender-based misconduct must file a report with the University and evaluate whether a timely warning or safety notification will be made. While law enforcement officers are required to file a Title IX report, complainants are not obligated to pursue an investigation through the University.

What to Report

Concerns falling under this Protocol must be reported whether the conduct occurred on-campus, off-campus, or at an academic, educational, co-curricular, athletic, study abroad, or other University program or activity.

Conduct prohibited by the University applies to the conduct of all students and employees that occurs in person or by any electronic form or medium on University premises or on non-University premises where the conduct away from University premises is deemed by the University to adversely affect the University, its students or employees, including but not limited to:

- a. Any professional practice assignment;
- b. Any activity performed to satisfy an academic course or course requirement, including but not limited to internships, co-op, clinical or practicum experiences, field trips, study abroad, or student teaching;
- c. Any activity supporting pursuit of a degree, such as research at another institution;
- d. Any activity sponsored, conducted, or authorized by the University or by student organizations including but not limited to social events, athletic contests, and philanthropic activities;
- e. Any activity that causes substantial destruction of property belonging to the University, members of the University community, or causes or threatens serious harm to the health or safety of members of the University community; or
- f. Any activity where a summons, criminal indictment, or information has been issued or an arrest has occurred.

The University and Title IX prohibits retaliation, including retaliatory harassment, against anyone who files a complaint under this procedure or who participates in an investigation in any way. Concerns of retaliation should be reported using any mechanism outlined below and will be addressed using the same process(es) available for reports of gender-based misconduct. Retaliation is itself a violation of protocol and formal complaints alleging retaliation will be investigated and addressed regardless of any outcome of the underlying concerns.

The Title IX Coordinator or a deputy Title IX coordinator can assist in determining whether the behavior may be covered by this Protocol. An individual making a report does not affirm that the reported behavior constitutes a specific offense.

Rather, the report alerts the appropriate officials to investigate a situation or incident that may fall under one of these areas.

Jurisdiction

Jurisdiction as defined by Title IX of the Education Amendments Act of 1972 must occur within locations, events or circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the prohibited conduct occurs; or in any building owned or controlled by a student organization officially recognized by The University of Akron. The prohibited behavior must occur against a complainant within the United States.

Jurisdiction as defined by The University of Akron Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University of Akron exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

Protections from discrimination outlined in this protocol are extended to all University students, faculty and staff; as well as to all applicants for admission to undergraduate or graduate studies and applicants for employment.

Students are prohibited by the University from engaging in prohibited conduct from the date they have been notified of their acceptance for admission until the date their degree is conferred; even though conduct may occur before classes begin or after classes end. Students who have not yet completed their degree and are no longer actively enrolled may be subject to a formal complaint as outlined in the grievance process. Employees are prohibited by the University from engaging in prohibited conduct from their first day of employment until their separation date (i.e. last day of employment).

Context will determine when individuals who are both students and employees of the University will be considered students and when they will be considered employees during a grievance process.

In circumstances in which behavior has been reported and it is determined that the respondent is not covered by the jurisdiction outlined in this policy; every effort will be made to refer the behavior to a high-school, college, university, or local police agency (when conduct is criminal) for possible investigation.

How to Report

Students and employees impacted by gender-based misconduct, including complainants and respondents, may face barriers to seeking support. Reports may be made in person; by mail or electronic mail, using the contact information below; or online. A report may be filed by the individual who was subjected to the behavior, someone who observed the behavior, someone that learned about the behavior second hand, or on behalf of someone who was subjected to the behavior but is incapacitated. Reports can also be made by those not affiliated with the University, but who have concerns of gender-based misconduct involving a student or employee of the University.

When choosing to self-report, students and employees are encouraged to take steps and care to ensure for their own personal safety at all times. Please call The University of Akron Police at 330-972-2911 if any member of the University community is in

immediate danger. Please call 911 to reach the local police department for off-campus emergencies. Students or employees who have experienced gender-based misconduct should consider retaining all communications from the respondent, including email, voicemail, text messages, and social media communications. Students or employees who have been impacted by the prohibited conduct outlined in this protocol should consider retaining all communications, including email, voicemail, text messages and social media communications. In instances where criminal conduct occurred, they may also consider taking steps to preserve physical or medical evidence, even in instances when not considering legal action in order to preserve the option for consideration in the future.

In Person

Reports can be made in person to:

Michael Strong – Dean of Students and Interim Title IX Coordinator Student Union 152
mstrong@uakron.edu
 (330) 972-7522

| Concern | Deputy Title IX Contact |
|---|---|
| Reports involving students on the main campus | Deputy Title IX Coordinator for Students Michael Strong, Dean of Students Student Union, Room 152 (330) 972-6048 mstrong@uakron.edu |
| Reports involving the regional campuses, including the Wayne Campus | Deputy Title IX Coordinator for Regional Campuses Gordon Holly, Assistant Dean of Student Success Wayne Campus, Boyer HPE Building, Room E242 (330) 972-8740 gholly@uakron.edu |
| Reports involving student athletes | Deputy Title IX Coordinators for Athletics Jacklin Wallgren, Senior Associate Athletic Director for Institutional Services Infocision Stadium 269 (330) 972-5512 jwallgren@uakron.edu |
| Reports involving employees and third-parties | Deputy Title IX Coordinator for Employees Emily Lenke, Director Employee and Labor Relations Administrative Services Building, Room 125E (330) 972-6195 emf22@uakron.edu |

Questions or concerns can also be referred to the Assistant Secretary for the U.S. Department of Education.

Online

To ensure ease of access and availability to submit a report at any time and from any location with access to the internet, reports can be submitted online through the University’s Title IX website: <https://www.uakron.edu/title-ix/report/>

Anonymous

Reports can be submitted anonymously, but doing so greatly limits the University’s ability to respond. Students or employees interested in anonymous reporting are advised to consider reporting options through <https://www.uakron.edu/safety/report-a-problem/anonymous-reporting.dot> which allow for ongoing communication while maintaining anonymity. Without additional information, the University faces a limited ability to gather corroborating information and due process considerations can foreclose the disciplinary process outlined in the grievance procedures.

Anonymous reports can also limit access to additional support and interim measures if the parties are not identified. Providing names does not obligate that complainant to pursue an investigation but does allow them access to additional support and resources through the University.

Confidential Reporting Options

A complainant or respondent may speak confidentially to individuals in legally protected roles. A confidential report will not result in a report to law enforcement or the filing of a Title IX report without the permission of the individual. The information will not be

reported to the Title IX Coordinator, a deputy coordinator, Student Conduct & Community Standards, The University of Akron Equal Employment Opportunity/Affirmative Action Office, or The University of Akron Police Department. A confidential report will not be included in the annual Campus Security Report. Options for confidential reporting include:

- The University of Akron Counseling and Testing Center
- The University of Akron’s Employee Assistance Program provider (“EAP”), which is available to all employees.
- The University of Akron, Wayne Campus, Counseling and Accessibility Services
- The University of Akron Health Services
- Off-campus clergy, counselors, physicians, and Sexual Assault Nurse Examiners (SANE)

On and Off Campus Resources

Information about resources available both on and off campus including counseling services, mental health services, victim advocacy, financial, and legal assistance are provided. Students and employees are encouraged to speak with a deputy Title IX coordinator to learn more about specific resources or services available at The University of Akron or within the community.

Akron Campus

- Counseling and Mental Health Services: [Clinic for Individual and Family Counseling](#) 330-972-6822
- Counseling and Mental Health Services: [Counseling and Testing Center](#): Simmons Hall 306, (330) 972-7082.
- Counseling and Mental Health Services: [Department of Psychology Counseling Clinic](#) 330-972-6714
- Counseling and Mental Health Services: [Employee Assistance Program](#) provider (“EAP”) is available to all employees. (800) 227-6007. EAP is a resource provided by the University through off campus providers that do not report
- Employee Services: [Equal Employment Opportunity/Affirmative Action](#) 330-972-7300
- Financial Assistance: [Student Emergency Financial Assistance](#) program (330) 972-7272
- Housing and Student Support Services: [Residence Life and Housing](#) 330-972-7800
- Medical and Student Support Services: [Student Health Services](#): Student Recreation and Wellness Center, 260, (330) 972-7808.
- Public Safety: [University of Akron Police Department](#) 330-972-2911
- Student Support Services: [Dean of Students Office](#) 330-972-6048
- Student Support Services: [Inclusive Excellence](#) 330-972-7522
- Student Support Services: [Student Conduct and Community Standards](#) 330-971-6380
- Victim Advocacy and Counseling: [Hope and Healing the Rape Crisis Center of Medina and Summit Counties](#) Student Recreation and Wellness Center, 246, (330) 434-7273.

Wayne Campus

- Counseling and Mental Health Services: [Counseling and Accessibility Services](#): Boyer HPE Building, B112, Wayne Campus, Orrville OH (330) 684-8767
- Public Safety: University of Akron Police (Wayne Campus) (330) 684-8910
- Student Support Services: [Wayne Campus Student Services](#) (330) 684-8900

Off Campus

- Counseling and Victim Advocacy: [Hope and Healing BWS](#) 330-374-1111 Battered Women’s Shelter of Summit and Medina Counties, 974 Market St. Akron, OH 44305
- Counseling and Victim Advocacy: [Hope and Healing RCC](#) (330) 434-7273 Rape Crisis Center of Summit and Medina Counties, 974 Market St. Akron, OH 44305
- Counseling and Victim Advocacy: [OneEighty](#) (800) 686-1122 Rape Crisis Center of Holmes and Wayne Counties, 104 Spink St. Gault Liberty Center Wooster, OH 44691
- Financial Assistance: [Ohio Victims of Crime Compensation Program](#) (877) 584-2846
- Legal Assistance: [Akron Bar Association](#) (330) 253-5007
- Legal Assistance: [Community Legal Aid](#) Services in Akron (330) 535-4191
- Medical: [PATH Center](#) (Providing Access to Healing) (330) 344-1148 Akron General Hospital Emergency Room, 1 Akron General Hospital. Akron, OH 44307
- Public Safety: [Akron Police Department](#) (330) 375-2658
- Victim Advocacy: [Ohio Sexual Violence Helpline](#) (844) OHIO-HELP (1-844-644-6435). This helpline is a confidential, statewide hotline dedicated to serving survivors of sexual assault and relationship violence.

- Victim Advocacy: [The National Sexual Assault Telephone Hotline](#) (800) 656-HOPE (4673). This hotline, operated by Rape Abuse and Incest National Network (RAINN), connects a caller with a local RAINN affiliate organization based on the first six digits of the caller's phone number.
- Victim Advocacy: [Victim Assistance Program](#) (330) 376-0040

Initial Outreach and Supportive Measures

A deputy Title IX coordinator, or designee, will reach out to the complainant identified in the report, on or before the following business day a report is received. They will invite the complainant to meet and discuss the report, review relevant policies, any necessary timely warnings/safety notifications, the grievance procedures and supportive measures. Any student or employee who has reported any gender-based misconduct that is reported within or outside of the jurisdiction of this protocol may receive supportive measures as provided by the University under this protocol. Written or email notification of this protocol including on and off campus resources for counseling, mental health, victim advocacy, legal assistance, visa and immigration assistance as well as financial assistance and how to request supportive measures will be provided.

Even if a complainant does not specifically request their information remain confidential, The University of Akron will seek to protect the privacy of all parties, to the extent possible. The deputy coordinator, or designee, will discuss with complainants what information is confidential and what information is not, as well as privacy protections required by the Family Education Right to Privacy Act ("FERPA"). They will review how information is disclosed during an investigation process, and clarify what information is, and is not, necessary to share when seeking supportive measures. The discussion includes the requirements of Clery Act including crime logs, annual security reports, timely warnings, police reports, evidence gathered during investigations and supportive measures.

If the report was submitted by a third party, the complainant will be provided an opportunity to review or amend the reported information. The complainant will review the grievance procedure with the deputy coordinator or designee and be offered assistance in submitting a formal complaint.

No decisions regarding formal complaints, reporting to police or police investigations, need to be made at this initial meeting. Supportive measures can be accessed at any time, even if the individual initially declined the service or declined to participate in the grievance process. Individuals who are the subject of a report are not required to meet with the deputy coordinator, or designee, but are encouraged to do so. After sufficient time has lapsed or after multiple attempts to contact the complainant prove unsuccessful, the report will be closed; it can be opened at any time in the future.

The personalized support provided to complainants following a report of prohibited conduct is also available to respondents upon their request. Upon receipt of a formal complaint, a deputy Title IX coordinator, or designee, will reach out to the respondent to offer personalized support.

Safety Planning and Supportive Measures

When meeting with complainants or respondents, the deputy coordinator, or designee, will discuss any immediate steps that can be taken before, during, or in lieu, of an investigation to minimize any ongoing harm. Informal safety plans may also lead to safety assessments designed to identify and mitigate any risk to the safety of the parties or community members.

Supportive measures are provided free of charge to protect complainants and respondents from harm, to protect safety, to remedy the effects of gender-based misconduct, and preserve equal access to the University's educational programs and activities. Supportive measures may also be issued to protect the larger campus community from harm. Measures may include campus restrictions or directives but cannot impose an unreasonable burden on either party.

Supportive measures can also be reviewed, amended, or changed at any point during or after the grievance procedures. The University may be able to provide appropriate supportive measures no matter how long ago the reported behavior occurred, no matter where it occurred, and no matter who the other party was. Both complainants and respondents have access to these measures and support. The measures may include, but are not limited to:

- amending work or class schedules, when appropriate, to minimize chance encounters;
- assistance with filing a police report with the appropriate authorities;
- attending to medical needs with referrals to Health Services or arranging for an advocate to accompany an individual to a hospital;
- discussing support such as safe escorts available through The University of Akron Police Department;
- filling an academic or financial appeal if academic performance is adversely impacted;
- offering a change of work locations or working conditions;
- offering alternative student housing arrangements;

- parking or transportation options such as switching parking permits from commuter or residential;
- providing information and referrals for counseling support through the Counseling and Testing Center or, as available, through the Employee Assistance Program (“EAP”); and
- request assistance from faculty to ensure students are provided an opportunity to successfully complete coursework.

It may be necessary to share certain information about the individual to other University employees to provide these accommodations or supportive measures. In these cases, information shared will be limited only to what and who is needed to consider the accommodation or supportive measure.

No Contact Directives and Orders of Protection

Upon request, complainants and respondents will be assisted in petitioning for a lawful order of protection through the appropriate court within the local jurisdiction. The deputy coordinators, Hope and Healing - the Rape Crisis Center of Summit County, OneEighty - the Rape Crisis Center of Wayne County and University of Akron Police are prepared to assist with such requests. Either temporary protection orders or civil protection orders may be issued by a judge under specific circumstances.

When a court order is issued, the protected party should provide a copy of the court order to a deputy coordinator or to The University of Akron Police Department. The University of Akron will comply with and enforce lawful orders of protection upon receipt of the order.

A University No Contact Directive will also be issued as a supportive measure upon request by either a complainant or respondent following a report of prohibited behaviors. The directives are applied equally to both parties and prohibit communication between the parties. The directives can be requested prior to, or in lieu of, a formal complaint or at any time during the grievance process. Witnesses and students or employees who are not complainants or respondents may also request a No Contact Directive.

Removal for Safety Threat

Student

Pending action on the alleged violation(s), the status of a student shall not be altered, nor shall the student’s right to be present on campus and to attend classes be suspended, unless the student’s presence poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment prohibited by Title IX or other University prohibited conduct outlined in this protocol. The Title IX Coordinator, or designee, shall determine whether such a threat exists. If the Title IX Coordinator, or designee, concludes that such a threat exists, the President, or designee, may suspend the student immediately.

This interim suspension does not replace the grievance process outline in this protocol.

Any student under an interim suspension may request a review of the interim suspension with the Title IX Coordinator, or designee, within three (3) business days of the suspension. The review will consist of an in-person meeting to review the interim suspension. Regardless of the outcome of the review, the grievance process will continue as provided in this protocol. The Title IX Coordinator has the authority to modify the interim suspension as appropriate.

Employee

Employees representing a safety threat to the University community, or to the employee’s own physical or emotional safety, may be placed on administrative leave pending the outcome of the investigation. The employee may be prohibited from all or part of University property and activities or may be permitted on campus only under specific conditions during this administrative leave.

Crime of Violence

An individual arrested for certain criminal offenses, including rape, sexual battery, gross sexual imposition and domestic violence, may be subject to a “1219” proceeding. A “1219” proceeding refers to a provision of Ohio law which provides for the suspension and termination of individuals arrested and convicted of crimes of violence that occur on or affecting University persons or property. The initiation of a “1219” proceeding against an individual does not prohibit the University from investigating and taking University disciplinary action against the same individual under applicable University Rules/Policies for the same conduct that gave rise to the “1219” proceeding.

Bias and Conflicts of Interest

Complainants and respondents may submit written requests to the Title IX Coordinator to replace a deputy Title IX coordinator, investigator, decision maker, or appeal decision maker where there are reasonable grounds to establish bias, conflict of interest, or

inability to be fair and impartial. Bias exists where an individual lacks the ability to remain neutral or impartial or evidences favoritism towards a particular complainant or respondent, or towards complainants or respondents generally. The appearance of bias or presence of aligned interest, in and of itself, does not constitute bias. A conflict of interest occurs when an individual may have a personal gain or loss as a result of the underlying report or complaint. The staff member will only be replaced if the Title IX Coordinator determines that bias precludes impartiality or constitutes conflict using a preponderance of the evidence standard, or whether it is more likely than not that bias or a conflict of interest exists.

A deputy Title IX coordinator, investigator, decision maker or appeal decision maker who has reason to believe they cannot make an objective determination shall recuse themselves.

Examples of Bias

- Assigning a credibility assessment based on a person's status as a complainant, respondent, or witness;
- Denying either complainants or respondents relevant and publicly available statistical information to test allegations of gender-bias;
- Having a personal relationship with one or more of the parties;
- Injecting sex-based stereotypes (such as only men are sexual predators and only women are victims) into proceedings or training;
- Restricting one party's access to evidence or the ability to participate in the reporting or grievance process;
- Restricting one party's access to help or assistance that would otherwise be provided following a formal complaint; or
- Sabotaging an employee's or student's report or formal complaint.

Examples of Conflicts of Interest

- Accepting a gift or benefit from one of the parties;
- Employing a party to the report or complaint in an outside business;
- Holding a supervisory role over any party to the report or complaint, whether an employee or student;
- Lack of professional autonomy to make decisions or findings; or
- Using information or evidence shared during a meeting for personal gain or benefit.

Examples Not Rising to Bias or Conflict of Interest (in and of itself):

- Having personal experience with conduct prohibited by the protocols either as a respondent or a complainant;
- Holding political views which are perceived as supporting rights of complainants or respondents;
- Introducing evidence-based training, data, or peer reviewed research into training for a Title IX coordinator, deputy coordinator, investigator, decision maker, or appeal decision maker;
- Participating in bystander intervention training or other training designed to prevent behavior prohibited by this protocol;
- Posting antiviolence campaigns on social media such as "It's On Us," "POWER" or "Zips Take a Stand";
- Prior findings of responsible or not responsible, when challenged solely on the number of times each outcome occurred;
- Prior professional or volunteer work representing complainants or respondents; or advocating for the rights of victims or respondents; or
- Pursuing a course of study with a gender-studies program or engaging in sexual assault research.

Statement of Shared Interests and Rights

Members of the University community have legal rights and due process protections which the University upholds. All members of the University community including complainants and respondents shall be provided:

- Access and encouragement to seek guidance from a member of the University community, Title IX coordinator or deputy Title IX coordinators
- Access to counseling and/or support services through either the University Counseling and Testing Center (students) or the Employee Assistance Program (faculty and staff)
- The right to choose not to speak or choose not to respond to the University following a report of prohibited conduct. Choosing not to respond does not absolve a student or employee of responsibility for their actions.

All complainants and respondents shall be provided the following:

- Notice and sufficient time to prepare prior to meetings.
- The opportunity to present witnesses and evidence during the grievance process.

- The presumption that neither the complainant nor the respondent are responsible for violating University policy until a determination is made at the conclusion of the grievance process.
- The right of timely notification of formal complaints in which they are a complainant or a respondent including if known: the name of the reporter (if different from the complainant), parties involved, conduct which is prohibited, date, and location of the incident.
- The right to an impartial grievance process free from bias or conflict of interest as defined in this protocol.
- The right to be accompanied by an advisor of their choice to any related meeting or proceeding.
- The right to be simultaneously informed in writing of modifications to the charges that occur during an investigation and of the outcome grievance process, informal resolution process, or any appeals.
- The right to review and provide comment on all relevant evidence including inculpatory (evidence that shows or tends to show involvement) and exculpatory (evidence that favors and tends to exonerate) evidence.
- To not be required to disclose or otherwise use questions or evidence that discloses information protected under a legally recognized privilege.

Grievance Process

Formal complaints filed with the University allege a violation of this Protocol. All formal complaints of gender-based misconduct will be investigated by the University in a prompt and equitable manner. Formal complaints against students will be investigated by the Office of Student Conduct & Community Standards. Formal complaints against employees, volunteers, or third parties will be investigated by the Office of Equal Employment Opportunity & Affirmative Action.

Complainants can also request investigations of potentially criminal behavior by The University of Akron Police Department or appropriate local law enforcement agency.

The grievance process includes an investigation, with both parties having the right and ability to participate in the investigation, collection of evidence, and a hearing. The burden of proving the allegations rests with the University. Respondents and complainants are presumed not responsible for violations of University protocol until a determination is made at the conclusion of the grievance process. Determinations of responsibility are only made following a hearing at the end of the grievance process.

Who Can File a Formal Complaint?

While anyone may file a report alleging that conduct occurred which is prohibited by this protocol, only individuals who are participating or seeking to participate in an education program or activity of the University may file a formal complaint requesting an investigation into conduct prohibited by Title IX of the Education Amendments Act of 1972.

Any individual who feels that they have been subjected to conduct prohibited by the University may file a formal complaint requesting an investigation into that conduct. Regardless of any request, the University will seek to protect the privacy of those involved in the complaint and investigation, to the extent permitted by law.

A formal complaint may also be filed by the Title IX Coordinator, or a deputy Title IX coordinator in consultation with the Title IX Coordinator. Whether to file a complaint without the request of a complainant will be evaluated based on the context of the University's commitment to provide a safe and non-discriminatory campus environment. Factors considered include, but are not limited to:

- Seriousness of the alleged violation, including the involvement of weapons, illegal drugs or intoxicants, illegal activities or multiple respondents;
- The existence of prior complaints or reports involving the respondent;
- Availability of other information verifying the veracity of the report; and
- Safety of the reporter, complainant, respondent and of the campus community.

Notice of Allegations

Written notice of a formal complaint will be issued to the complainant and respondent by the investigating office upon receipt of the complaint. This notice will contain a description of the grievance process and details regarding the allegations, including the identities of the parties, and the date and location of the incident. This notice will be updated if additional allegations arise during the investigation that are not included in the original notice.

Advisors

Parties may have an advisor of their choice accompany them and assist them throughout the investigatory process. The advisor may, but is not required to be, an attorney. At the request of either party, the University will provide an advisor to them at no cost.

Advisors provided to either party by the University will receive training prior to serving as an advisor. While parties may have an advisor accompany them to any interviews or meetings, this person may not actively participate in the interview by asking questions or suggesting answers. The investigator may end the interview if the advisor is being disruptive or obstructing the interview. During a hearing, and only during a hearing, advisors will be responsible for asking questions of the parties and witnesses on behalf of the person they are advising. Advisors are to use any materials obtained during the investigation solely for the grievance process.

Investigation Process

Investigations will be conducted by trained investigators who are free from conflicts of interest or bias for or against complainants or respondents generally, or a particular complainant or respondent. The burden of gathering information rests with the University. There is an expectation that all parties will reasonably cooperate with requests to provide information. No medical, mental health, or other privileged records will be accessed, considered, or used during the investigation unless the party who is the subject of those records provides voluntary, written consent.

All formal complaints will be investigated. The University may consolidate formal complaints where the allegations arise out of the same facts or circumstances, including allegations against more than one respondent, allegations by more than one complainant against one or more respondents or by a respondent against a complainant.

The investigation process will include interviews with the parties, witnesses (as appropriate and identified), and the collection of evidence. Witness names, including fact or expert witnesses, may be provided by either party or by other witnesses. Both parties also have the opportunity to present any evidence to the investigator related to determining responsibility. All evidence that the parties wish to have considered by the investigator must be provided by the date specified by the investigator.

Parties and witnesses will be provided with written notice of the date, time, location, purpose, and identity of participants for any interview or meeting where they are expected to participate. At least two (2) business day notice should be given to the investigator if an advisor will attend the interview. Interviews may not be recorded without the written permission of the investigator.

The parties have the right to inspect and review all evidence collected during the investigation that is directly related to the allegations raised in the formal complaint. Copies of all evidence directly related to the allegations will be provided to the parties and their advisor at the conclusion of the investigation and prior to the issuance of the final investigatory report. Either party may submit a written response to this evidence or address the impact of that evidence on the investigation no later than ten (10) business days after the evidence has been provided to review. Copies of the written responses will be included with the final report.

After the ten (10) business day period for submission of a written response, the investigator will prepare a written report summarizing the relevant evidence gathered during the investigation. This report will provide an objective evaluation of all relevant evidence, both inculpatory and exculpatory. In creating the report, the investigation will consider any written responses submitted by the parties during the evidence review process. The written report will be provided to both parties and their advisors at least ten (10) business days in advance of the hearing. Parties may submit a written response to the report within five (5) business days after the report is issued. These responses will be shared with the other party, their advisor and the hearing officer in advance of the hearing.

Dismissal of Formal Complaints

Formal complaints filed under Title IX of the Education Amendments Act of 1972 will be dismissed if the conduct alleged: (1) does not constitute sexual harassment as defined by Title IX; (2) did not occur in a University education program or activity; or (3) did not occur against a person in the United States.

Formal complaints filed under Title IX or University rules or policies may be dismissed: (1) on written request of the complainant; (2) if the respondent is no longer enrolled or employed at the University; (3) specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination on the allegations in the formal complaint; or, (4) the allegations as contained in the complaint would not support a plausible inference of a violation of the University policy following a hearing.

Both parties will receive prompt written notice of any dismissal and the reason for that dismissal. Dismissals can be appealed following the appeal process outlined below.

Timeframe for Investigations

All efforts will be made to issue the investigator's report within 75-business days after receipt of the formal complaint. The hearing will be completed within 30- business days of the report being issued. The hearing officer's report will be issued within ten (10) business days of the hearing. The parties will have ten (10) business days to file a written appeal following the issuance of the hearing officer's report. These dates may be extended for good cause. Both the complainant and respondent may request a three (3) business day delay; any additional extension after the initial delay shall only be granted for good cause and in limited circumstances,

at the sole discretion of the Title IX Coordinator. Good cause includes, but is not limited to, the absence of a party, their advisor or a witness; concurrent law enforcement activity or investigations; location or unavailability of an interpreter; or provision of reasonable accommodations of disabilities needed for the grievance process. Written notice of any extensions, and the reasons for the extension(s), will be provided to both parties.

Hearing Process

A live hearing will occur following the issuance of the investigative report. The University may conduct this live hearing through a virtual platform that permits the parties to simultaneously view and hear each other and the proceedings. The parties, their advisors, and all witnesses will be notified in writing of the date, time, and location of the hearing no later than ten (10) business days before the hearing. At the request of either party, the hearing will be conducted electronically with the parties in separate rooms. No findings of responsibility will be made by the hearing officer based solely on an individual's absence from the live hearing or failure to answer questions at the hearing.

During the hearing, the parties' advisors will have the opportunity to cross-examine the other party and witnesses, including on issues of credibility. This advisor may, but is not required to be, an attorney. All questioning will be conducted in accordance with the University's rules of decorum. The parties may not ask questions directly of the other party or witness. If a party does not have an advisor, the University will provide an advisor for the hearing at no cost to that party. All evidence directly related to the allegations which was obtained as part of the investigation will be made available to the parties and their advisors for their use at the hearing.

The hearing officer will determine the admissibility of any questions asked during the hearing. In doing so, the hearing officer is not bound by the Ohio Rules of Evidence or the Federal Rules of Evidence. Questions about the complainant's sexual predisposition or prior sexual behavior will not be permitted unless offered to prove that someone other than the respondent committed the alleged conduct or offered to prove consent as defined under this Protocol. Questions seeking disclosure of legally privileged information, such as medical or mental health information, discussions with attorneys, counselors or religious/spiritual advisors, will not be permitted without the express written consent of the individual holding the privilege.

The hearings will be video recorded. A copy of the recording will be made available to either party upon written request.

Hearing Outcome

The hearing officer will determine responsibility for a violation of this Protocol following the hearing using a preponderance of the evidence standard, or whether it is more likely than not that the respondent engaged in conduct which violates this policy. Credibility determinations will be based on relevant factors, including, but not limited to, an overall review of the interviews, evidence collected, and questioning at the hearing. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

This determination will be made in a written report which will be provided to both parties simultaneously and includes the allegations; a description of all procedural steps from receipt of the formal complaint through the hearing; findings of fact supporting the determination; conclusions regarding how this policy applies to those facts; a statement and rationale for the result of each allegation, including a determination of responsibility, any disciplinary sanctions and whether remediation will be provided to the complainant. The report will also provide the bases available for appeal.

Sanctions will be determined based on the specific facts of the case. Sanctions for students may include a range of disciplinary action from fines, educational sanctions, probation, up to and including separation from the University. Sanctions for employees can include a range of disciplinary action from additional training or a written reprimand, up to and including termination from employment. The hearing officer will also determine whether remedies should be provided to a complainant to restore or preserve equal access to the University's education programs or activities. If the hearing officer determines that remedies are appropriate, those remedies will be determined by the Title IX Coordinator or deputy Title IX coordinator in consultation with the complainant. Remedies may include those items identified above as supportive measures; revisions of class, work or recreational schedules; relocation of a party's work or living space; adjustments to title, rank or pay rates if impacted by the violation; amendment or rescission of disciplinary action if impacted by the violation; up to and including the removal of a party from a class, activity, organization or committee. Both parties continue to have access to supportive measures regardless of the outcome of the hearing.

Appeals

Either party may appeal the hearing officer's findings within ten (10) business days following the issuance of the hearing officer's report. Appeals of hearing decisions following investigations conducted by the Department of Student Conduct and Community Standards or by the Office of Equal Employment Opportunity & Affirmative Action should be submitted to the Title IX Coordinator.

Appeals must be filed in writing. Any recommended corrective action will be delayed during the appeal. Appeals may be filed for the following reasons, to determine if:

- There occurred a procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the complaint;
- The Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter;
- There was a misapplication or misinterpretation of the rule/policy alleged to have been violated;
- There was not a reasonable basis to support the hearing officer's findings that a violation of the rule/policy .
- The sanction(s) imposed by the hearing officer is not proportionate to the violation found by the hearing officer.

Both parties will be notified in writing if an appeal is filed. The other party will have ten (10) business days to file a response to the appeal after the written notice is issued by the Title IX Coordinator. The reviewer will simultaneously issue a written decision describing the result of the appeal and the rationale for the result of the appeal to both parties within fifteen (15) business days after the response is submitted.

False Reports

It is a violation of this protocol to knowingly make a false report of a Gender-Based Misconduct violation. However, failure to prove a claim is not equivalent to making a false report. It is also a violation of this protocol for a student or an employee to knowingly make a false statement as part of the investigation or disciplinary hearing.

When Police Receive a Report

Responsible employees are required to report criminal behavior; however, complainants are not required to speak with police. The University of Akron will comply with a student's request for assistance in notifying The University of Akron Police. A report to The University of Akron Police, or other law enforcement agency, does not require the complainant to pursue a University investigation (formal complaint).

When The University of Akron Police Department receives a report of sexual misconduct or intimate personal violence, their first priority is to ensure that the student or employee is safe, and they will investigate the criminal behavior. The University of Akron Police will verify that a Gender-Based Misconduct referral has been submitted and evaluate the available information to determine if a timely warning safety notification will be made.

When The University of Akron Police receive a report from a deputy Title IX coordinator on behalf of a complainant who does not wish to speak to the police, the police, when possible, will defer to the request from a complainant for privacy.

Please note that a delay in reporting to police could weaken or result in a loss of evidence used to determine whether an individual is responsible for a criminal offense. In the State of Ohio, individuals may have up to 20 years to file a sexual assault report with the police.

Police Investigations

A respondent who commits a crime may be subject to criminal prosecution and/or civil litigation as well as disciplinary action by The University of Akron. A police report must be made for criminal prosecution to be considered by the local prosecuting attorney. The chances of successful prosecution are greater if the report is timely and is supported by the collection of medical and/or legal evidence.

Concurrent Investigations

In certain circumstances, the University may need to briefly suspend the investigation of a formal complaint at the request of law enforcement while the law enforcement agency is in the process of gathering evidence. The University will maintain regular contact with law enforcement to determine when it will begin/resume its investigation, usually after the law enforcement agency has completed the evidence-gathering process, or sooner if the University determines that the evidence-gathering process will be lengthy or delayed. The University will not wait until the ultimate outcome of the criminal investigation to begin or complete its own investigation of a formal complaint. The situation of concurrent investigations can influence the timeframe for investigations and the hearing process and may present a delay.

If a Complainant Stops Speaking with Police

The University of Akron Police Department will not close an investigation due to non-cooperation of a complainant without first providing time to respond that is adequate and reasonable under the circumstance. Nor will University police personnel prohibit the

complainant or others from discussing a formal complaint. Support services and resources are available regardless of criminal charges, participation in a University investigation, or University disciplinary action.

Informal Resolutions

The University of Akron encourages informal resolution of formal complaints when the parties wish to resolve a formal complaint cooperatively. Informal resolutions will be reached when the parties agree to participate in the Informal Resolution process, to the resolution, and to commit to abide by terms established through the resolution process. The informal process does not result in any finding or determination that the respondent violated this protocol but does permit the parties to work cooperatively with a neutral third party to determine how to address and resolve the underlying concerns between the parties.

Eligible Complaints

Only formal complaints where the respondent is a student or formal complaints between employees are eligible for an informal resolution. Formal complaints filed by students against employees must follow the investigation and hearing process.

The informal process cannot be used if one party is not a student or employee of the University of Akron, where any party is under 18 years of age or where the respondent has been removed from the University community following the procedures outlined in the 1219 process in response to crimes of violence.

Procedures

The informal resolution process may be requested at any point after a formal complaint has been filed and until a decision is made at the end of the grievance process. Both parties must consent in writing to participate in the informal process. Agreement to the informal process is voluntary and unique to that party. In cases of multiple complainants and/or multiple respondents, all individuals must agree to participate in the informal process before that process can be used. A party can withdraw their consent to the informal process at any time before a final agreement is reached by the parties. If all parties do not agree to use the informal process or if consent is withdrawn, then an investigation and hearing will occur.

The informal resolution process will be conducted by a designee of the Title IX coordinator. The designee may end the informal resolution process and request an investigation through the grievance process at any point if it is determined that one of the parties has sought or exercised undue influence over another party. Informal resolution processes must be completed within fifteen (15) business days; if no agreement has been reached an investigation will be conducted as outlined in the grievance process.

The formal complaint will be considered closed once the parties have reached a final agreement through the informal resolution process. The Title IX coordinator, or designee, will maintain a record of the report, formal complaint, and resolution for seven (7) years. Relevant offices will be notified of the final resolution outcome including offices of collective bargaining units, the Office of Academic Affairs, the Vice President of Student Affairs, The Office of Human Resources, Labor & Employee Relations, and Title IX deputies and investigators. The Title IX Coordinator, or designee, will also be responsible for monitoring the implementation of the resolution as appropriate and will address noncompliance with the resolution agreement through The Office of Human Resources, Labor & Employee Relations, or as outlined in the Code of Student Conduct's policy on Failure to Comply with a University Official.

Additional Considerations

When a Minor is involved

When a report is received involving a student who has not yet reached the age of eighteen:

- the deputy Title IX coordinator completes a safety assessment to provide an environment free of harm and to identify the student's legal guardian;
- the student is advised of the University staff member's responsibility to report child abuse as outlined in the Ohio Revised Code Section 2151.421;
- A deputy Title IX coordinator works directly with the guardian in reviewing The University of Akron Interim Title IX and Gender-Based Misconduct protocols, on and off campus resources available to the student, and seeking the permission to investigate the report;
- the student and guardian are advised of The University of Akron Student Records and Privacy Practices available at <https://www.uakron.edu/ogc/legal-policies-and-procedures/privacy-practices-and-policies/ferpa.dot> and specifically that the student's records and ability to make decisions transition to the student when they turn eighteen;
- the student and guardian are advised that Hope & Healing – Rape Crisis Center for Medina and Summit Counties provides confidential and anonymous support for clients, including those who are not yet eighteen.

Immigration or International Visa Information

Certain legal protections are available to international employees or students. The U-visa and the T-visa are currently among those options. The U-visa provides temporary legal status and work eligibility for complainants of specific crimes (including domestic violence, sexual assault, human trafficking, involuntary servitude, and other violations). The T-visa provides complainants of human trafficking and immediate family members with temporary legal status and work eligibility. Additional information is available through the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services at: <https://www.uscis.gov/>. For further information with this or other immigrant status questions, please contact Community Legal Aid Services in Akron at (330) 535-4191.

Records Retention

Records, including reports, formal complaints, investigation files, hearing decisions, appellate information and appeal decisions will be maintained by the University for seven (7) years as required by Title IX. Title IX records are subject to The University of Akron records retention policy and additional information is available at <https://www.uakron.edu/ogc/legal-policies-and-procedures/records/records-retention.dot>.

Annual Review of Reporting Protocols and Procedures

The Title IX Coordinator is responsible for this Protocol. It is reviewed annually and posted as required by law as part of the Annual Campus Safety Report. The University of Akron's Protocol is designed to comply with applicable state and federal laws. The University of Akron reserves the right to modify or deviate from this Protocol when, in the sole judgment of the University, circumstances warrant, to protect the rights of the involved parties or to comply with applicable law or regulations. Prior versions of the University Protocol are available upon request.

Training

All Title IX Coordinators, deputy Title IX coordinators, investigators, decision makers, individuals responsible for reviewing appeals, and individuals who facilitate the informal resolution process will, as applicable, receive training on:

- The definition of behaviors prohibited under this Protocol;
- Jurisdiction under Title IX;
- The scope of the University's education program or activities;
- How to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable; and
- How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

In addition, decision makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators will receive training on issues of relevancy in order to create an investigative report that fairly summarizes the relevant evidence. Any materials used to train these individuals will be available on the University's website.

Educational Programs and Campaigns

The University of Akron strives to develop and maintain a campus culture that is safe for, and respectful of all its community members. To achieve this goal, the University offers a combination of prevention programs, awareness programs, and ongoing campaigns that are designed to create awareness of, and prevent prohibited behaviors identified in this Protocol. The initiatives outlined below are informed by research and periodically assessed for effectiveness.

Awareness - The University of Akron's awareness program start with online training which is mandatory for all new students, and continues with programs specifically designed for first-time, first-year, students. Programs are also presented to the University during Domestic Violence Awareness Month, and Sexual Assault Awareness Month.

Prevention - The University of Akron's prevention program has been built upon several activities. Programs have included presentations during the Akron Experience Course, posters, environmental and social media displays around campus, online training for upper-class students, mandatory training for faculty and staff and a program designed to better help men understand wellness, health, and their own experiences. Trainings include steps students can take to increase personal empowerment for creating a safe community by proactively addressing conditions that tend to make violence possible and safe options for bystander interventions.

Ongoing Prevention – Successful ongoing prevention efforts require the engagement and support of the entire University community. In addition to programs sponsored by the Sexual Assault and Violence Education (SAVE) team, several programs and

activities sponsored by student organizations and academic departments have been recognized as essential contributions including programs planned and developed by:

- Student Organizations: Defined Lines and the Coalition Against Sexual Assault (CASA)
- Academic Departments: Women’s Studies, Psychology, Social Work and Sociology
- Community Partners: Hope and Healing – the Rape Crisis Center of Summit and Medina Counties, OneEighty – the Rape
- Crisis Center of Wayne and Holmes Counties, and the Summit County Prosecutor’s Office of Victim Services

Law

Title IX

The Education Amendments of 1972, or Title IX, provides:

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.

Title IX applies to institutions that receive federal financial assistance from the Department of Education, including state and local educational agencies.

Additional information about Title IX is available at <https://www2.ed.gov/about/offices/list/ocr/index.html>.

First Amendment

This Protocol is not intended to and will not be enforced to infringe upon First Amendment rights, including the right to academic freedom.

Clery Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 (“Clery Act”), requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses and to notify the campus community of certain safety concerns. The Clery Act requires colleges and universities to:

- Publish and distribute an annual campus security report (available at <https://www.uakron.edu/safety/>);
- Maintain a public log of all reported crimes;
- Issue timely warnings (“Safety Advisory”) of crimes that represent a threat to the safety of students or employees; and
- Keep statistics of crime that occur on campus, in institutional residential facilities, in off-campus buildings or on public property adjacent to campus.

Violence Against Women Act

The Violence Against Women Reauthorization Act of 2013 (“VAWA”) amended the Clery Act. VAWA requires institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports. Additional Information about VAWA is available at <https://www.justice.gov/ovw>.

Ohio Criminal Offenses

The following definitions of criminal behavior in the State of Ohio are considered violations of Title IX. These definitions describe many of the same crimes outlined in the prohibited behaviors section of this policy.

Sex Offenses

There is currently no definition of “Sexual Assault” in the Ohio Revised Code. However, the following crimes are defined by Ohio law.

Ohio Revised Code 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:

- 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.

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

Ohio Revised Code 2907.03 – Sexual Battery

- (A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:
- The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.
 - The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.
 - The offender knows that the other person submits because the other person is unaware that the act is being committed.
 - The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.
 - The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.
 - The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.
 - The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.
 - The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.
 - The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person.
 - The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.
 - The other person is confined in a detention facility, and the offender is an employee of that detention facility.
 - The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.
 - The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.

Ohio Revised Code 2907.04 – Unlawful Sexual Conduct with a Minor

(A) No person who is eighteen years of age or older shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

Ohio Revised Code 2907.05 – Gross Sexual Imposition

- (A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:
- The offender purposely compels the other person, or one of the other persons, to submit by force or threat of force.
 - For the purpose of preventing resistance, the offender substantially impairs the judgment or control of the other person or of one of the other persons by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.
 - The offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination, treatment, or surgery.

- The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person.
- The ability of the other person to resist or consent or the ability of one of the other persons 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 ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age.

(B) No person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Ohio Revised Code 2907.06 – Sexual Imposition

(A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:

- The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
- The offender knows that the other person's, or one of the other person's, ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
- The offender knows that the other person, or one of the other persons, submits because of being unaware of the sexual contact.
- The other person, or one of the other persons, is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.
- The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

Domestic Violence

Ohio Revised Code 2919.25 – Domestic Violence

(A) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(B) No person shall recklessly cause serious physical harm to a family or household member.

(C) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

Dating Violence

There is currently no definition of "Dating Violence" in the Ohio Revised Code.

Ohio Revised Code 2903.11 – Felonious Assault

(A) No person shall knowingly do either of the following:

- Cause serious physical harm to another or to another's unborn;
- Cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.

(B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall knowingly do any of the following:

- Engage in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;
- Engage in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome;
- Engage in sexual conduct with a person under eighteen years of age who is not the spouse of the offender.

Stalking

Ohio Revised Code 2903.211 – Menacing by Stalking

(A)(1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

(2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, r-computer system, or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:

- Violate division (A)(1) of this section:
- Urge or incite another to commit a violation of division (A)(1) of this section.
- No person, with a sexual motivation, shall violate division (A)(1) or (2) of this section.

Additional

The following is a list of additional specific offenses under Ohio law that may fall under the broader categories identified above. This list is not exhaustive and, depending upon the circumstances of the crime and the individuals involved, other offenses could fall into these categories:

- Ohio Revised Code 2903.12 – Aggravated Assault
- Ohio Revised Code 2903.13 – Assault
- Ohio Revised Code 2903.14 – Negligent Assault
- Ohio Revised Code 2905.01 – Kidnapping
- Ohio Revised Code 2905.02 – Abduction
- Ohio Revised Code 2905.03 – Unlawful Restraint
- Ohio Revised Code 2917.11 – Disorderly Conduct
- Ohio Revised Code 2903.21 – Aggravated Menacing
- Ohio Revised Code 2903.22 – Menacing
- Ohio Revised Code 2917.21 – Telecommunications Harassment

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