

# **Civil Rights Equity Resolution Policy & Procedure**

**One Policy, One Process Model (1P1P) for all Faculty,  
Students, Administrators, & Staff  
2017-2018**

## **POLICY: Equal Opportunity, Harassment and Nondiscrimination**

### **Applicable Scope**

Tiffin University affirms the commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the institutional Equity Resolution Process (ERP), as detailed below. When the responding party is a member of the University community, the ERP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, campers, etc.

### **Title IX Coordinator**

The Assistant Vice President for Equity, Access & Opportunity serves as the Title IX Coordinator<sup>1</sup> and oversees implementation of the University's harassment and nondiscrimination policy. The Title IX Coordinator oversees the Title IX Committee and acts with independence and authority free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Coordinator, contact the University President Lillian Schumacher at (419) 448-3053. To raise concerns regarding a potential conflict of interest with any other administrator involved in the ERP, please contact the Title IX Coordinator.

Inquiries about and reports regarding this policy and procedure may be made internally to:

Dr. Sharon Perry-Fantini

Vice Provost for Equity, Access & Opportunity /Title IX Coordinator

Office of Equity, Access & Opportunity

155 Miami St, Tiffin, OH 44883

(419) 448-3504

[perryfantinis@tiffin.edu](mailto:perryfantinis@tiffin.edu)

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<sup>1</sup>Note that throughout this document, the term "Title IX Coordinator" refers to the Title IX Coordinator or designee.

<sup>2</sup>As used in this document, the term "reporting party" refers to the person impacted by alleged discrimination. The term "responding party" refers to the person who has allegedly engaged in discrimination.

## Deputy Coordinators

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Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Local OCR Office Contact Information  
Office of Civil Rights  
One Government Center  
Room 936, Jackson & Erie Streets Toledo, Ohio 43604  
(419) 245-2900

### **Reporting Discrimination**

Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the University's jurisdiction, the ability to investigate, respond and provide remedies may be more limited:

- 1) Report directly to the Title IX Coordinator or to a Deputy Coordinator(s)
- 2) Report online, using the reporting form posted at [https://publicdocs.maxient.com/reportingform.php?TiffinUniv&layout\\_id=40](https://publicdocs.maxient.com/reportingform.php?TiffinUniv&layout_id=40)
- 3) Faculty, Staff, or Administrators may report to their direct supervisors, who are responsible for reporting to the Title IX Coordinator.

- 4) Students may report to the Dean of Students, Faculty, Administrators or Staff, who are responsible for reporting to the Title IX Coordinator.

All reports are acted upon promptly while every effort is made by the University to preserve the privacy of reports.

### **Mandatory Participants**

It is the responsibility of all members of the Tiffin University community (faculty, students, administrators, staff, visitors, and third party vendors) to create and maintain an educational and employment environment that is free of discrimination.

All employees of the University are designated as mandated reporters and will share a report with the Title IX Coordinator promptly.

### **Confidential Employees**

Confidential employees are individuals who have a confidentiality privilege to protect the personal identification of an reporting party or the responding party unless there is a belief of imminent threat. These confidential employees (i.e. health care professional, licensed counselors, etc.) may achieve their reporting requirements by the creation of general reports for statistical purposes and pattern tracking but that do not disclose personally identifiable information without client consent.

### **Anonymous Complaints**

Anonymous complaints will be accepted; however, Tiffin University might be limited in the ability to investigate and/or resolve anonymous complaints since the ability to gain further information may be compromised. Anonymous reports will be investigated to determine if remedies can be provided.

If a request is made, it is critical to understand the inability to use a name has the capability to significantly impede the ability to conduct an impartial and fair investigation and, in many cases, the inability to investigate the matter or resolve through this process. Furthermore, confidentiality may also impact interim measures. For example, a No Contact Directive will not be issued if the name of the reporting or responding party cannot be shared. The institution will make an effort to honor the request; however, there are times the request will not be granted. Examples include but are not limited to:

- Reported use of force in an alleged violation
- Reported use of a weapon in an alleged violation
- Prior allegations made against the responding party

### **Confidentiality**

The Investigative Team, advisors, and others at the University involved in or aware of the complaint will take reasonable steps to protect the privacy of all involved. Once a complaint is filed, the reporting party, responding party, and any witnesses will be notified of the potential for compromising the integrity of the investigation by disclosing information about the case including the expectation that they keep such information confidential including but not limited to any documents they may receive or review. They also will be notified that sharing

such information might compromise the investigation or may be interpreted as retaliatory. Retaliation of any kind is a separate violation of the Policy and could lead to an additional complaint and consequences.

The parties are free to share their own experiences, excluding any information that they have learned solely through the investigatory process. Although to avoid the possibility of compromising the investigation, it is generally advisable to limit the number of people in whom one does confide.

### **Jurisdiction**

This policy applies to behaviors that take place on the campus, at University-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
- 2) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- 3) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- 4) Any situation that is detrimental to the educational interests of the University.

Any online postings or other electronic communication, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of the control of the University, (e.g. not on University networks, websites or between University email accounts) will only be subject to this policy when those online behaviors can be shown to cause a substantial educational disruption. Otherwise, such communications are considered speech protected by the 1<sup>st</sup> Amendment. Remedies for such conduct will be provided, but protected speech cannot be legally subjected to discipline.

Off-campus discriminatory or harassing speech by employees may be regulated by the University only when such speech is made in an employee's official or work-related capacity.

### **1. University Policy on Nondiscrimination**

Tiffin University is committed to a policy of nondiscrimination and equal opportunity for employees, applicants for employment, students or applicants for admission, and access to educational opportunities on the basis of race, religion, personal appearance, color, sex, pregnancy, political affiliation, social-economic class, place of business, residence, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, family responsibilities, sexual orientation, gender, gender identity, gender expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status] or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or

participating in any resolution process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive, or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the campus community, guest, or visitor on the basis of their actual or perceived membership in the protected classes listed above is in violation of the University policy on nondiscrimination. When brought to the attention of the University, any such discrimination will be appropriately addressed and remedied by the University according to the Equity Resolution Process. Non-members of the campus community who engage in discriminatory actions within University programs or on University property are not under the jurisdiction of this policy, but can be subject to actions that limit their access and/or involvement with University programs as the result of their misconduct. All vendors serving the University through third-party contracts are subject by those contracts to the policies and procedures or their employers or to these policies and procedures, to which their employer has agreed to be bound.

## **2. University Policy on Accommodation of Disabilities**

The University is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA and ADAAA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The AVP has been designated as the 504 Coordinator and is responsible for coordinating efforts by direction of senior leadership to comply with these disability laws, including an investigation of any allegation of noncompliance.

### **a. Students with Disabilities**

The University is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of the University.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Director of Disability Services who coordinates services for students with disabilities. The Director of Disability Services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate to the student's particular needs and academic programs.

### **b. Employees with Disabilities**

The University will provide reasonable accommodation(s) to all qualified employees with known disabilities where their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation using the applicable form and providing appropriate documentation. The Director of Disability Services will work with the employee's supervisor and human resources to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

### **3. University Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. The harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University policy.

#### **a. Discriminatory and Bias-Related Harassment**

Harassment constitutes a form of discrimination that is prohibited by University policy as well as the law. University condemns and will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of any status protected by policy or law. University will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, University may also impose sanctions on the harasser through application of the Equity Resolution Process. University's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent or pervasive such that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.<sup>2</sup>

The University reserves the right to address offensive conduct and/or harassment that;

- does not rise to the level of creating a hostile environment, or
- that is of a generic nature and not on the basis of a protected status.

Addressing such behaviors may not result in the imposition of discipline under University policy, but will be addressed through respectful confrontation, remedial actions, education, and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Vice President for Human Resources & Campus Services and students should contact the Director of Student Conduct.

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<sup>2</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department Of Education Office For Civil Rights, Racial Incidents And Harassment Against Students At Educational Institutions Investigative Guidance. The document is available at: <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

## b. Sexual Harassment

The Department of Education - Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC) and the State of Ohio regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. The University has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.<sup>3</sup>

Sexual harassment is:

- unwelcome,
- sexual, sex-based and/or gender-based,
- verbal, written, online and/or physical conduct.

Anyone experiencing sexual harassment in any University program is encouraged to report it immediately to the Title IX Coordinator or Deputy Coordinator(s). Remedies, education, and/or training will be provided in response.

Sexual harassment may be disciplined when it takes the form of *quid pro quo* harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- Severe, or
- persistent or pervasive<sup>4</sup>, and
- objectively offensive, such that it:
  - unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational, employment, social and/or residential program.

*Quid Pro Quo* Sexual Harassment:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance.

Some examples of possible Sexual Harassment include<sup>5</sup>:

- A professor insists that a student have sex with the professor in exchange for a good grade. This is harassment regardless of whether the student agrees to the request and irrespective of whether a good grade is promised or a bad grade is threatened.

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<sup>3</sup> Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, "Revised Sexual Harassment Guidance: Harassment Of Students By School Employees, Other Students, Or Third Parties, Title IX," which can be found at: <http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html>, the April, 2011 Dear Colleague Letter on Campus Sexual Violence, which can be found at: [http://www.whitehouse.gov/sites/default/files/dear\\_colleague\\_sexual\\_violence.pdf](http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf) and OCR's Questions and Answers on Title IX and Sexual Violence, which can be found at: <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

<sup>4</sup> Private institutions may prefer the OCR standard: sufficiently severe or pervasive.

<sup>5</sup> OCR has been consistent in their expectation for examples to be included in policy.

- A student repeatedly sends sexually oriented jokes around on an email list the student created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door.
- Two supervisors frequently 'rate' several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students to discuss their past sexual experiences in class, yet the conversation is not in any way relevant to the subject matter of the class. The professor probes for explicit details, and demands that students answer, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social outcast on campus.
- Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

#### **POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS<sup>6</sup>**

Tiffin University does not interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and standards of Tiffin University. For the personal protection of members of this community, faculty/staff-student sexual relationships are strongly discouraged. Consensual romantic or sexual relationships in which one party retains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities. This includes Area Coordinators, Head Residents, Resident Assistants, Campus Security, and students over whom they have direct responsibility. There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent does not remove grounds for a charge of a violation this policy.

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<sup>6</sup> This section may also be included elsewhere, such as a faculty handbook or employee manual. It is included here to inform students, not just employees, of our expectations. Regardless, violation of this policy is an HR/Employee Relations Matter, and will not be addressed under the ERP unless the elements of *Quid Pro Quo* harassment are met.

### **c. Sexual Misconduct<sup>7</sup>**

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, University has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, University considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation and/or gender identity of those involved. Violations include:

#### **i. Sexual Harassment (as defined in section b above)**

#### **ii. Non-Consensual Sexual Intercourse**

Defined as:

- any sexual intercourse
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force<sup>8</sup>

Sexual intercourse includes:

- Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

#### **iii. Non-Consensual Sexual Contact<sup>9</sup>**

Defined as:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person

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<sup>7</sup> We avoid terms such as rape and sexual assault in policy, as they confuse discrimination with criminal activity.

<sup>8</sup> The use of force in non-consensual sexual intercourse and contact-based incidents is not “worse” than the subjective experience of violation of someone who is a victim of sexual intercourse or sexual contact without consent. However, the use of physical force constitutes a stand-alone non-sexual offense as well, as it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct allegation, but allegations under the code for the additional assaultive behavior.

<sup>9</sup> The state definition of sexual assault may be review at <http://codes.ohio.gov/orc/2907>, which is applicable to criminal prosecutions for sexual offenses in Ohio, but may differ from the definition used on campus to address policy violations.

- that is without consent and/or by force

Sexual touching includes:

- Intentional contact with the breasts, groin, or genitals, mouth 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 bodily contact in a sexual manner.

#### iv. **Sexual Exploitation**

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent).
- Prostitution.
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection.
- Administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
- Exposing one’s genitals in non-consensual circumstances.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

#### v. **Force, Coercion, and Consent<sup>10</sup>**

**Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you.” “Okay, don’t hit me, I’ll do what you want.”).

**Coercion** is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear

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<sup>10</sup> The state definition of consent may be review at <http://codes.ohio.gov/orc/2907>, which is applicable to criminal prosecutions for sex offenses in Ohio, but may differ from the definition used on campus to address policy violations. [Included for Clery/VAWA Sec. 304 compliance purposes]

to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

*NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.*

**Consent** is an agreement, permission, or approval, as to various act or purpose that is given knowingly, willingly, and voluntarily to engage in mutually agreed upon sexual activity. Consent is sexual permission.

- Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity.
- A person is deemed incapable of consent when that person is mentally incapacitated, or physically unable to resist.
- In order for individuals to engage in sexual activity of any type with each other, there must be precise, clear, and voluntary consent prior to and during sexual activity.
- Consent can be given by word or action. Non-verbal consent is not as clear as talking about what you want or do not want sexually. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.
- Silence, lacking actions demonstrating permission should never be assumed to show consent.
- Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.
- A current or previous dating relationship is not sufficient to constitute consent. Previous consent does not imply consent to future sexual acts. Consent is required regardless of the relationship status or sexual history together.
- Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).
- The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred.
- This policy states that “No” always means “No”. “Yes” may not always mean “Yes”. A clear, knowing and voluntary consent to any sexual activity is equivalent to a “Yes.”

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

In Ohio, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

Examples of lack of consent:

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being "a prude." Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never have done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. **Bill is responsible for violating the university Non-Consensual Sexual Contact policy. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.**
2. Jiang is a junior at the university. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? **Jiang would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.**
3. Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and John says yes. Clothes go flying, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a

good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the Dean. **This is a violation of the Non-Consensual Sexual Intercourse Policy. Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of respectful conduct the university expects.**

#### 4. Other Civil Rights Offenses

In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.<sup>11</sup>

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity.
  
- **Bullying**
  - Repeated and/or severe
  - Aggressive behavior
  - Likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally
  - That is not speech or conduct otherwise protected by the 1<sup>st</sup> Amendment.
  
- **Cyber-Bullying**
  - Repeated and/or severe
  - Aggressive behavior
  - Likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally
  - Takes place exploiting electronic technology. Electronic technology includes devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat, and websites.
  - That is not speech or conduct otherwise protected by the 1<sup>st</sup> Amendment.

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<sup>11</sup> 1P1P model, refers in this section to the protected class status.

- **Intimate Partner Violence**, defined as violence or abuse between those in an intimate interaction and/or relationship to each other<sup>12</sup>;
  - Examples:
    - A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence policy.
    - An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she does not give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.
    - A graduate student refuses to wear a condom and forces his girlfriend to take hormonal birth control though it makes her ill, in order to prevent pregnancy.
    - Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.
  - **Domestic Violence:** Domestic violence" means the occurrence of one or more of the following acts against a family or household member:
    - No person shall knowingly cause or attempt to cause physical harm to a family or household member.
    - No person shall recklessly cause serious physical harm to a family or household member.
    - 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:** The term “dating violence” means violence committed by a person:
    - Who is or has been in a social relationship of a romantic or intimate nature with the victim and
    - The existence of such a relationship shall be based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - For the purposes of this definition-
    - (1) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - (2) Dating violence does not include acts covered under the definition of domestic violence.
    - *For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.*

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<sup>12</sup> The state legal definitions of domestic violence and dating violence may also be included (if desired) as either a footnote or an appendix. State of Ohio domestic violence definition is at <http://codes.ohio.gov/orc/2919.25>. While the state definitions are not required as policy by either Title IX or recent Clery Act amendments through VAWA Sec. 304, they are required in the Clery Act ASR. Thus, many campuses refer to this policy in their Annual Security Reports (ASR), or will use a link to this policy to satisfy the ASR requirements on sexual assault disclosures. Incorporating the state definitions of domestic violence and dating violence will help to satisfy the ASR disclosure requirement, but it is important to note that nothing in the law requires schools to evaluate campus reports using state legal standards. The Clery requirement is just one of disclosure, so that victims may know what the state provisions are if they are considering making a criminal complaint. Dating violence is not specifically defined in Ohio state criminal statutes.

- **Stalking**
  - Stalking 1:
    - A course of conduct
    - Directed at a specific person
    - On the basis of actual or perceived membership in a protected class
    - That is unwelcome, AND
    - Would cause a reasonable person to feel fear
  - Stalking 2:
    - Repetitive and Menacing
    - Pursuit, following, harassing and/or interfering with the peace and/or safety of another
- Examples of Stalking
  - A student repeatedly shows up at another student's on-campus residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together (Stalking 1).
  - A graduate student working as a on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate if the gift deliveries stop. The student then started leaving notes of love and gratitude on the graduate assistant's car, both on-campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together" (Stalking 2).
- Any other University policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

Sanctions for the above-listed "Other Civil Rights Behaviors" behaviors range from reprimand through expulsion for students or termination of employment for Faculty, Staff, or Administrators.

## **5. Retaliation**

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of University policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator of designee and will be promptly investigated. University is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

#### Examples of Retaliation:

- Student-athlete A files an allegation against a coach for sexual harassment; the coach subsequently cuts the student-athlete's playing time in half without a legitimate justification or does not renew the student-athlete's scholarship without previous documented discipline reasons.
- A faculty member complains of gender inequity in pay within her department; the Department Chair then revokes his prior approval allowing her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual misconduct hearing against the responding individual – also a member of Organization A; the student is subsequently removed as a member of Organization A because he participated in the hearing.

#### **6. Remedial Action**

Upon notice of alleged discrimination, University will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medial services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

The University will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

The University will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures.

Procedures for handling reported incidents are fully described below.

#### **7. Confidentiality and Reporting of Offenses Under This Policy**

All University employees (faculty, staff, and administrators) are expected to report actual or suspected discrimination or harassment to the Title IX Coordinator or designee immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials – thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. Other resources exist for reporting parties to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the reporting options at University:

**a. Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

**On Campus Services**

Victims Advocate Juli Huston 155 Miami (419) 448-3021 hustonjr@tiffin.edu	Health & Wellness Center – Medical Fran Ford, Nurse Seneca House (419) 448-3429 fordfj@tiffin.edu	Health & Wellness - Counseling Julie Richards, Director of Counseling Seneca House (419) 448-3578 georgej@tiffin.edu
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**Off Campus Assistance**

Tiffin Police Department 51 East Market St Tiffin, OH 44883 911 or (419) 447-2323	Tiffin Fire Department 53 S Monroe Tiffin OH 44883 911 or (419) 447-1234	Mercy Hospital 45 Lawrence Dr Tiffin, OH 44883 (419)447-3130
Firelands Counseling & Recovery 76 Ashwood Tiffin, OH 44883 (419) 448-9440	Seneca County Victims Assistance 71 S. Washington Tiffin, OH 44883 (419) 448-5070	

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Campus counselors [and/or the Employee Assistance Program] are available to help free of charge and can be seen on an emergency basis during normal business hours. University employees listed above will submit anonymous statistical information for Reporting and for Clery Act purposes.

**b. Formal Reporting Options**

All University employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive.

Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal University action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the University’s ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the Equity Resolution Process.

In cases indicating pattern, predation, threat, weapons, and/or violence, the University will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by University when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Office for Equity, Access, & Opportunity; Division of Student Affairs; Campus Security, and the Threat Assessment Team (if applicable). Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the online reporting form posted at [https://publicdocs.maxient.com/reportingform.php?TiffinUniv&layout\\_id=40](https://publicdocs.maxient.com/reportingform.php?TiffinUniv&layout_id=40). Note that these anonymous reports may prompt a need for the institution to investigate.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a **violation** of University policy and can be subject to disciplinary action for failure to comply.

#### **8. Federal Timely Warning Obligations**

Parties reporting sexual misconduct should be aware that under the Clery Act, University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

#### **9. False Allegations**

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

#### **10. Amnesty for Reporting Party and Witnesses**

The University community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to University officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to University officials, and that witnesses come forward to share what they know. To encourage reporting, University pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident.

**Students:** Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Security). The University pursues a policy of amnesty for students who offer help to others

in need. While policy violations cannot be overlooked, the university will provide educational options, rather than punishment, to those who offer their assistance to others in need.

**Employees<sup>13</sup>:** Sometimes, employees are also hesitant report harassment or discrimination they have experienced for fear that they may get themselves in trouble. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to University officials. The institution may, at its discretion, offer employee reporting parties amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to witnesses on a case-by-case basis.

### **11. Parental Notification (allegations involving students)**

The University reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, and/or change in student status or conduct situation, particularly concerning alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the University will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The University also reserves the right to designate which university officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

### **12. Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus security regarding the type of incident and its general location (on or off-campus, in the surrounding area, although no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, in order to ensure greater community safety. Mandated federal reporters include: student affairs/student conduct, [campus law enforcement], local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

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<sup>13</sup> This section is included to offer amnesty to students and faculty, staff, and administrators.

## **EQUITY RESOLUTION<sup>14</sup> PROCESS FOR ALLEGATIONS OF HARASSMENT, SEXUAL MISCONDUCT, AND OTHER FORMS OF DISCRIMINATION**

Tiffin University will act on any formal or informal allegation or notice of violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination that is received by the Title IX Coordinator or a member of the administration, faculty, or staff.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class involving students, staff, or faculty. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

### **Overview**

Upon notice to the Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the University will initiate a confidential investigation that is thorough, reliable, impartial, prompt, and fair. The investigation and the subsequent resolution process determines whether the nondiscrimination policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent its recurrence, and address its effects.

### **1. Equity Resolution Process (ERP)<sup>15</sup>**

Allegations under the policy on nondiscrimination are resolved using the ERP. Members of the ERP pool are announced in an annual distribution of this policy to campus, prospective students, their parents, and prospective employees. The list of members and a description of the panel can be found at <http://www.tiffin.edu/institutionaldiversity/titleix/>. Members of the ERP pool are trained in all aspects of the resolution process, and can serve in any of the following rolls at the direction of the Title IX Coordinator:

- To provide sensitive intake for and initial advice pertaining to allegations
- To serve in a mediation role in conflict resolution
- To investigate allegations
- To act as process advisors to those involved in the Equity Resolution Process
- To serve on appeal panels for allegations

ERP pool members (Civil Rights Investigators) also recommend proactive policies, and serve in an educative role for the community. The Title IX Coordinator, in consultation with the President, appoints the pool, which reports to the Title IX Coordinator. ERP pool members receive annual training organized by the Title IX Coordinator, including a review of University policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability. This training will include, but is not limited to: how to

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<sup>14</sup> 1 Process 1 Policy, <sup>15</sup> Equity Resolution Process, formerly entitled: Grievance process. ERP pool members means Civil Rights Investigators.

appropriately remedy, investigate, render findings, and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the University’s Discrimination and Harassment Policies and Procedures (including Sexual Misconduct); confidentiality and privacy; and applicable laws, regulation, and federal regulatory guidance. All ERP pool members are required to attend this annual training to be eligible to serve.

The Equity Resolution Process pool includes:

- 2 Co-chairs: one representative from HR and one from Student Life, etc., who are *ex officio* members
- At least three members of the academic affairs administration
- At least five members of the administration/staff
- At least one representative from Campus Safety
- At least two representatives from Human Resources
- At least one representative from Athletics

Dr. Sharon Perry-Fantini	Title IX Coordinator	Chair/Rep. of HR
Ms. Nadia Lewis	Title IX Deputy Coordinator	Co-Chair/Rep. of HR
Mr. Jacob Simon	Title IX Deputy Coordinator	Co-Chair/Rep. of Student Affairs
Mr. Rudy Brownell	Title IX Deputy Coordinator	Representative of Athletics
Ms. Sandy Miller	Title IX Deputy Coordinator	Representative of Academic Affairs
Mr. Diego Hernandez	Civil Rights Investigator	Representative of Academic Affairs
Mr. Sami Mejiri	Civil Rights Investigator	Representative of Academic Affairs
Mr. Leonard Reaves	Civil Rights Investigator	Representative of Academic Affairs
Mr. Michael Lewis	Civil Rights Investigator	Representative of Academic Affairs
Mr. Pete Piraino	Civil Rights Investigator	Representative of Academic Affairs
Ms. Lacy Ellis	Civil Rights Investigator	Representative of Academic Affairs
Ms. Ana Paula Fantini	Civil Rights Investigator	Representative of Academic Affairs
Dr. Joyce Hall-Yates	Civil Rights Investigator	Representative of Administration/Staff
Mr. Scott Saracusa	Civil Rights Investigator	Representative of Administration/Staff
Ms. Tangi Ritchie	Civil Rights Investigator	Representative of Administration/Staff
Mr. Michael Herdlick	Civil Rights Investigator	Representative of Administration/Staff
Ms. Jennifer Boucher	Civil Rights Investigator	Representative of Campus Security
Ms. Brianne Fox	Assistant Director for EAO	Representative of Administration/Staff

ERP pool members are usually appointed to two-year terms. Appointments to the pool should be made with attention to representation of groups protected by the harassment and non-discrimination policy. Individuals who are interested in serving in the pool are encouraged to contact the Title IX Coordinator.

## 2. Reporting Misconduct

Any member of the community, guest, or visitor who believes that the policy on Equal Opportunity, Harassment, and Nondiscrimination has been violated should contact the Title IX Coordinator.

It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the community, including visitors, may contact Campus Security to make a report. These individuals will in turn notify the Title IX Coordinator. The University website also includes a reporting form at [https://publicdocs.maxient.com/reportingform.php?TiffinUniv&layout\\_id=40](https://publicdocs.maxient.com/reportingform.php?TiffinUniv&layout_id=40) which may serve to initiate the resolution process.

All employees receiving reports of a potential violation of University policy are expected to promptly contact the Title IX Coordinator within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy. Specific information on any allegations received by any party will be reported to the Title IX Coordinator. Additionally, subject to the University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, University will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

### **3. Preliminary Inquiry**

Following receipt of notice or a report of misconduct, the Title IX Coordinator<sup>16</sup> engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. The preliminary inquiry is typically 1-3 days in duration though some investigations take longer depending on the nature, extent, and complexity of the allegations, the availability of witnesses, police involvement, etc. This inquiry may also serve to help the Title IX Coordinator determine if the allegations evidence violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Coordinator may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. When necessary, the University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed or the University determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator will direct a formal investigation to commence and the allegation will be resolved through one of the processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution
- Administrative Resolution – resolution by a trained administrator

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Coordinator. Conflict Resolution may only occur if selected by all parties, otherwise the Administrative Resolution Process applies.

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<sup>16</sup> If circumstances require, the President or Title IX Coordinator may designate another person to oversee the process below, should an allegation be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once a formal investigation has been commenced, the Title IX Coordinator will provide written notification of the investigation to the responding party at an appropriate time during the investigation.<sup>17</sup> The University aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties as warranted.

If, either during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator determines that there is no reasonable cause (preponderance of evidence) to believe that policy has been violated, the process will end unless the reporting party requests that the Title IX Coordinator makes an extraordinary determination to re-open the investigation. This decision lies at the sole discretion of the Title IX Coordinator.

#### **4. Interim Remedies/Actions**

The Title IX Coordinator may provide interim remedies intended to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired))
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The University may interim suspend a student, employee, or organization pending the completion of ERP investigation and procedures, particularly when in the judgment of the Title IX Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by on-campus presence of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee, or student organization will be given the option to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator has

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<sup>17</sup> Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University -issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or the University campus/facilities/events. As determined by the Title IX Coordinator, this restriction can include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

## **5. Investigation**

Once the decision is made to commence a formal investigation, the Title IX Coordinator appoints ERP pool members (Civil Rights Investigators) to conduct the investigation (typically using a team of two ERP investigators), usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within ten (10) days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, the availability of witnesses, police involvement, etc.

The University may undertake a short delay its investigation (several days to weeks, to allow evidence collection) when criminal charges involving the same behaviors that invoked this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. University action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviewing all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g.: the Title IX Coordinator), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Assist the Title IX Coordinator with an immediate preliminary inquiry to determine if there is reasonable cause (preponderance of evidence) to believe the responding party has violated policy.
  - If there is insufficient evidence to support reasonable cause (preponderance of evidence), the inquiry should be closed with no further action;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of allegation [charges] on the basis of the preliminary inquiry;

- Meet with the reporting party to finalize their statement, if necessary;
- If possible, provide reporting party and responding party with a written description of the alleged violation(s), a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result. This may be completed with a intital letter which refers to the applicable handbook/manual;
- Summarize relevant evidence that will be used in rendering a determination and provide each with a fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Submit recommendation to the Title IX Coordinator a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Title IX Coordinator submits recommendation to the President or designee for review and approval, approval with revisions, or denial. The Title IX Coordinator may approve if warranted.
- Title IX Coordinator will finalize and present the findings to the parties

At any point during the investigation, if it is determined there is no preponderance of the evidence to believe that University policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation and the Equity Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Equity Resolution Process constitutes a violation of policy and may be subject to violation. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind are permitted during investigation meetings or other Equity Resolution Process proceedings without the approval of the investigation team.

### **Coordination with Law Enforcement Authorities**

In the event that an allegation includes behavior or actions that are under review by law-enforcement authorities, the investigative team will, based on status updates from law-enforcement authorities and the Title IX Coordinator, assess and reassess the timing of the investigation under the Policy, so that it does not compromise the criminal investigation.

## 6. Advisors

Each party is allowed to have an advisor of their choice present with them for ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community.

The parties may be accompanied by their advisor in meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

Responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or the
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]

Ohio Legal Assistance for low income may wish to contact organizations such as:

- **Legal Aid Programs**
  - Advocates for Basic Legal Equality, Inc. (ABLE) <http://www.ablelaw.org/> (Offices in Dayton, Toledo, Defiance)
  - Legal Aid of Western Ohio, Inc. (LAWO) <http://www.lawolaw.org/>
- **Statewide Legal Services Program**
  - Disability Rights of Ohio  
<http://www.disabilityrightsohio.org/sites/default/themes/disabilityrightsohio/dro/index.html>

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The University expects that the parties will wish to share documentation related to the allegations with their advisors. Parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3<sup>rd</sup> parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video, and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

## **7. Resolution**

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with University policy. While the contents of the investigation meeting are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors or advocates.

### **a. Conflict Resolution (Informal Investigation)**

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained administrator will facilitate a dialogue with the parties to reach an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Coordinator believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue a more formal investigation known as Administrative Resolution, and any party participating in conflict resolution can stop that process at any time and request a shift to Administrative Resolution.

**b. Administrative Resolution (Formal Investigation)**

Administrative Resolution can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Nondiscrimination, at any time during the process.

In Administrative Resolution, the Title IX Coordinator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment and Nondiscrimination. Accordingly, investigations should be conducted with as wide a scope as necessary.

Administrative Resolution relies on the evidence, information and recommended findings within the investigation report to render a determination. Unless it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the Title IX Coordinator with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

The investigation will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

Any evidence that is believed to be relevant and credible may be considered, including history and pattern evidence. Information may be excluded if found to be irrelevant, immaterial, lacking in credibility, or that is improperly prejudicial.

Neither the Title IX Coordinator or investigators will meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or Administrative Resolution process. If the responding party admits responsibility, the Title IX Coordinator will render a determination that the individual is in violation of University policy.

Upon completion of the investigation, the investigators will provide the Title IX Coordinator with a written report summarizing the evidence gathered and examined, including an assessment of credibility of the parties and witnesses, an analysis of the information, and a recommended finding and sanction (if applicable). The Title IX Coordinator may conduct any additional necessary inquiry. The Title IX Coordinator will consider, but is not bound by, the recommendations of the investigation with assistance and guidance from legal (if warranted). The Title IX Coordinator submits a recommendation to the President or designee for review and approval, approval with revisions, or denial. The Title IX Coordinator may approve if warranted.

The Title IX Coordinator will inform the parties of the final determination within three (3) days of the resolution. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University records; or emailed to the parties' University -issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, on any changes that occur prior to finalization, and on any appeals options that are available.

### **c. Sanctions**

Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the hearing panel
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the reporting party and the community

*The University reserves the right to broaden or lessen any range of recommended sanctions in the case of serious alleviating conditions of offensive behavior.*

### **i. Student Sanctions**

The following are common sanctions that may be imposed upon students or organizations individually or in combination:

- *Warning:* A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure or directive will result in more severe sanctions/responsive actions.
- *Probation:* A written reprimand for violation of the Code of Student Conduct, providing for more

severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders, and/or other measures deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at the University. This sanction may be noted as a Conduct Suspension on the student's official transcript, at the discretion of the Title IX Coordinator.
- *Expulsion*: Permanent termination of student status, revocation of rights to be on campus for any reason or attend University sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma/Transcript*: The University may withhold a student's diploma/transcript for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation, or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

## ii. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions, the University may assign any other

sanctions as deemed appropriate.

#### **d. Withdrawal or Resignation While Charges Pending**

**Students:** Should a student decide to leave and/or not participate in the ERP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to University unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

**Employees:** Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any University responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

#### **e. Appeals**

Alleged individuals and/or reporting party have the right to appeal the decision if;

1. A procedural error occurred that significantly impacted the outcome (e.g. substantiated bias, material deviation from established procedures, etc.)
2. The appellant has substantive and relevant new information that was not available at the time of investigation and that may change the outcome of the decision. In this case, the Title IX Coordinator will review with the Civil Rights Investigators and render recommendation (if applicable).

*Disagreement with the investigation findings or determination is not, by itself, grounds for appeal.*

The appeal petition must be submitted within three (3) business days of receiving the written decision. Any party who files an appeal must do so in writing to the President or designee of the University. The President or designee of the University will work with the Title IX Coordinator or designee and will share the appeal with the other party (e.g., if the appeals, the appeal is shared with the alleged, who may also wish to file a response), and then the Title IX Coordinator or designee will draft a response memorandum (also shared with all parties) by direction of the President or designee of the University.

Within fourteen (14) calendar days of receiving the appeal (excluding closures and holidays), the Title IX Coordinator or designee will prepare a written response taking one of the following courses of action:

1. Amend the sanction
2. Dismiss the sanction
3. Uphold the sanction

Decisions made at the end of the appeal phase are final.

The Appeals Committee will be comprised of three (3) individuals who did not serve as Title IX Investigators on the case. The appeals committee should reflect a balance of males and females in each category and a diversity of representation in terms of race, color, religion, national origin, sexual orientation, age, and disability is desirable. The members must have training in Civil Rights. If the case is related to sexual misconduct, a victim

advocate representative will serve as one of the three-committee members on the appeal.

All sanctions recommended within the Title IX report and approved by the President or designee and the Title IX Coordinator will be in effect during the appeal. A request may be made to the Title IX Coordinator or designee for special consideration in crucial circumstances, but the presumptive stance of the institution is that the sanctions will stand. This includes but is not limited to graduation participation; study abroad, internships, etc. These opportunities do not constitute crucial circumstances, and individuals may not be able to participate in those activities during the appeal. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the individual to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.

#### **f. Long-Term Remedies/Actions**

Following the conclusion of the Equity Resolution Process and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions to stop the harassment or discrimination, remedy its effects, and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanently altering the housing situation of an the responding party (resident student or resident employee (or the reporting party, if desired))
- Permanently altering work arrangements for employees
- Providing campus escorts
- Climate surveys
- Policy modification
- Providing transportation accommodations
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

#### **g. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions**

All responding parties are expected to comply with conduct sanctions, responsive actions, and corrective actions within the time frame specified by the Title IX Coordinator. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

## **h. Records**

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely in the Maxient Title IX Coordinator database.

## **i. Statement of the Rights of the Parties**

### ***Statement of the Reporting Party's rights:***

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to University officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public, without their consent;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement authorities and the option to be assisted by campus security in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus security and off-campus authorities;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing, or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an responding partysexual misconduct incident, if so requested by the reporting party

and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:

- Change of on-campus housing;
  - Assistance from University support staff in completing the relocation;
  - Transportation accommodations;
  - Arranging to dissolve a housing contract and pro-rating a refund;
  - Exam (paper, assignment) rescheduling;
  - Taking an incomplete in a class;
  - Transferring class sections;
  - Temporary withdrawal;
  - Alternative course completion options.
- 
- The right to have the University maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
  - The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
  - The right to ask the investigators to identify relevant witnesses, including expert witnesses;
  - The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
  - The right not to have irrelevant prior sexual history admitted as evidence;
  - The right to regular updates on the status of the investigation and/or resolution;
  - The right to have reports addressed by investigators and Title IX Coordinator/Deputy who are certified and trained (sexual misconduct training);
  - The right to preservation of privacy, to the extent possible and permitted by law;
  - The right to meetings and/or interviews that are closed to the public;
  - The right to petition that any University representative in the process be excused on the basis of demonstrated bias or conflict-of-interest;
  - The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;

- The right to have the university compel the participation of student, faculty and staff witnesses, and the opportunity to provide the investigators with a list of potential questions to ask of witnesses;
- The right to submit an impact statement in writing to the Title IX Coordinator following determination of responsibility;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing when a decision by the University is considered final, to be informed of any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and to be informed of procedure for doing so in accordance with the standards for appeal established by the University.

***Statement of the Responding Party's rights:***

The rights of the responding party should also be prominently indicated. These should include, among others particular to your University:

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to University administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services;
- The right to timely written notice of all alleged violations, including the nature of the violation, the applicable policies and procedures, and possible sanctions;
- The right to review evidence applicable to the findings, subject to the privacy limitations imposed by state and federal law, prior to the finding;
- The right to be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);

- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports addressed by investigators and Title IX Coordinator/Deputy who are certified and trained (sexual misconduct training);
- The right to petition that any University representative in the process be excused on the basis of demonstrated bias or conflict-of-interest;
- The right to meetings and interviews that are closed to the public;
- The right to have an advisor of their choice to accompany and assist throughout the campus resolution process;
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to provide an impact statement in writing to the Title IX Coordinator following any determination of responsibility;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing when a decision of the University is considered final, to be informed of any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and to be informed of the procedure for doing so in accordance with the standards for appeal established by the University.

## **9. Disabilities Accommodation in the Equity Resolution Process**

The University is committed to providing qualified students, employees, or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Resolution Process at the University. Anyone needing such accommodations or support should contact the Director of Disability Services, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation.

### **Pregnancy and Parenting**

The regulations implementing Title IX state that a recipient of federal financial assistance shall not discriminate against any student or exclude any students from its educational programs or activities, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery there from. Female students may not be discriminated against based upon their pregnancy or parenting status or be treated differently than any other student enrolled at the school. These provisions also extend to a student who fathers a child.

Working directly with the Office for Disability Services, a pregnant student should be granted a leave of absence for as long as it is deemed medically necessary for the student to be absent, at the conclusion of the leave, the student must be allowed to resume the status held when the leave began.

Office for Disability Services  
Ms. Juli Huston, Coordinator  
155 Miami St, Tiffin, OH 44883  
(419) 448-3021  
[hustonjr@tiffin.edu](mailto:hustonjr@tiffin.edu)

## **10. Victims Advocacy**

The University victim advocate representative will contact the reporting party within one business day of receiving a report of alleged sexual misconduct (i.e. dating violence, domestic violence, stalking, etc.) and schedule a resources and options meeting. During the resources and options meeting, the following will be discussed:

- Medical
- Mental health
- Advocacy
- Law Enforcement
- Other resources available on campus and in the surrounding community (locate resources outside of the community if applicable) (e.g. legal assistance, protective measures, etc.)
- Interim measures (e.g. student financial aid assistance, applying to change on-campus housing, immigration assistance, etc.)
- Obligation of the University to investigate every report of alleged sexual misconduct based on federal law
- Verify information from the initial incident report. The reporting party is not required to attend this meeting. If the reporting party does not respond, the victim advocate representative will make two (2) additional attempts to contact the individual. If the reporting party does not respond at all, the victim advocate representative will send written acknowledgement of nonparticipation. The reporting party may choose to participate at a later time. If so, the re-engagement process may begin at any time before the case is closed.

Victims and Survivors may also request the assistance of the Coordinator of Victims Advocacy for confidential services without seeking formal resolution (without filing an incident report).

## **Web Resources**

Listed below are a few resources that may be helpful in learning more about sexual misconduct behaviors and resources.

Intimate Partner Violence / Domestic Violence or Dating Violence.

Learn more at: <http://www.loveisrespect.org/is-this-abuse/power-and-control-wheel/>

## Stalking

Learn more at: <https://www.victimsofcrime.org/our-programs/stalking-resource-center>

## Sexual Assault

Learn more at: <http://www.oaesv.org/rape-crisis-centers-in-ohio/>

## Healthy Relationships and Self Care.

Visit the National Domestic Violence Hotline project at: <http://www.loveisrespect.org/>

### **If You Experience Sexual Misconduct**

- 1) Go to a safe location as soon as you are able.
- 2) Seek immediate medical attention if you are injured, or believe you may have been exposed to an STI/STD or potential pregnancy.
- 3) Contact any of the following for immediate assistance:

Tiffin University  
Campus Security  
(419)934-0721

Tiffin Police Department  
51 East Market St  
Tiffin, OH 44883  
(419) 447-2323  
24- hour service

Tiffin University  
Student Affairs  
Administrator On-Call  
(419) 208-5235  
24- hour service

If you are off-campus and experiencing an emergency situation, you can call local police by dialing 911.

### *Additonal Information (per VAWA, Section 304)*

- Title IX Coordinator at 419-448-3504 Regular business hours, M–F\*
- Campus Safety at 419-934-0721 24 hours/7 days a week
- Campus Victim Advocate at 419-448-3021 Regular business hours, M–F\*
- Campus Health Services at 419-448-3429 Regular business hours, M–F\*
- Counseling Center at 419-448-3578 Regular business hours, M–F\*
- Dean of Students at 419-448-3582. Regular business hours, M–F\*
- National Rape Crisis Center at 800-656-HOPE (4673)
- Domestic Violence Agency/First Step, at 800-466-6228

*\*Note that campus officials may contact on-call staff from other departments when their offices are closed or they are otherwise unavailable to assist immediately.*

- 4) It is important to preserve physical evidence that may include tissue and fluid samples, evidence of violence, sheets, towels, clothing, etc. You may choose to avoid washing, bathing, urinating, etc., until after being examined at the hospital, if at all possible. Because evidence of a sexual assault can deteriorate quickly, you may choose to seek a medical exam as soon as possible. Evidence collection should be completed within 120 hours of an assault, but fluids, hair samples, and DNA can be collected for a long time thereafter. Even if you have washed, evidence can often still be obtained. After 120 hours, it may still be helpful to have medical attention, even if you are not trying to obtain evidence of an assault. Sexual assault nurse examiners (SANE) are trained in the collection of forensic evidence, and can check for injuries and exposure to sexually transmitted diseases. If you are still wearing any clothes worn during the assault, wear them to the hospital, but bring a change of clothes, as the hospital will keep the clothes you are wearing as evidence. If you have changed clothes, bring the ones you were wearing during the assault to the hospital in a clean paper (not plastic) bag or a wrapped in a clean sheet. Leave sheets/towels at the scene of the assault. The police will collect them. Typically, the police will be called to the hospital to take custody of the rape kit, but it is up to you whether you wish to speak with them or file a criminal complaint.
- 5) Choose how to proceed. You have options, and are encouraged to contact the Campus Victim Advocate to discuss your options: 1) Do nothing until you are ready; 2) Pursue resolution by the University; and/or 3) Initiate criminal proceedings; and/or 4) Initiate a civil process against the perpetrator. You may pursue a combination of options.

## **11. Definitions**

### **Incident Report/Complaint**

A written description of the facts that allege violation of a University policy on equal opportunity, harassment, discrimination, or sexual misconduct policy.

### **Reporting Party**

An individual who have allegedly been subjected to discrimination, harassment, or sexual misconduct.

### **Third Party Complainant**

An individual (may be a group) who submits a incident report on behalf of another who has allegedly been subjected to harassment, discrimination, or sexual misconduct.

### **Responding Party**

An individual(s) who allegedly discriminated or harassed another person(s).

### **Witness**

Individual(s) who have information about the alleged harassment, discrimination, or sexual misconduct. A witness may be able to prove, disprove, or illuminate an investigation on behave of the reporting party or responding party.

### **Advisor**

Any individual who provides the reporting party or responding party support, guidance, or advice. This person does not actively participate in the process, but can be present at meetings to provide support to the reporting party or responding party. Advisors cannot be a witness in the matter.

## Investigation

It is a fact-finding inquiry. This process involves attempts to determine whether behavior occurred, and if it is in violation of institutional policy, which prohibits discrimination, harassment, or sexual misconduct. It also makes recommendations for resolution of discriminatory, harassing, or sexual misconduct conditions.

## Preponderance of Evidence

Standard of proof. Preponderance of evidence means that the information presented in the matter must indicate to a reasonable person that it is more likely than not that the alleged committed a violation.

## Advocate

An advocate is a person who has been trained on issues related to sexual violence and who offers support services through their work with a community organization (e.g. the local rape crisis center) or at the university. It is the role of the advocate to provide information, discuss options, and offer support with any needed step. The assistance offered by an advocate can be a one-time occurrence or on an ongoing, longer term basis.

## **12. Monitoring of Sanctions**

The Office for Equity, Access, & Opportunity and the Office of Human Resources is responsible for monitoring completion and compliance with all sanctions. If a student is suspended via this process petitions to re-enroll, that petition will be reviewed with the Office for Equity, Access, & Opportunity prior to a decision on re-enrollment being made. Absent unusual circumstances, if a student has complied with all components of their sanctions and completed the re-enrollment requirements, they will be permitted to re-enroll.

## **13. Records Retention**

The records are maintained in Maxient. All records pertaining to pending litigation or a request for records shall be maintained in accordance with University legal counsel. Requests for information should be directed to the University President.

## **11. Revision**

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally. This policy and procedure was implemented in July 2016, July 2017.

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