

# Sex/Gender-Based Harassment, Discrimination, and Sexual Misconduct Policy

**Policy Number:**

1270

**Date Created/Revised:**

03/11/2021

**Executive Responsibility:**

Office of Audit

Risk & Compliance

**Functional Responsibility:**

Title IX Coordinator & Equity Investigator

**References:**

[Appendix A: Reporting](#)

[Appendix B: Resolution Process and Timelines](#)

[Appendix C: Support Services and Accommodations](#)

[Appendix D: Terms](#)

[Appendix E: Responsible Employees and Roles](#)

[Appendix F: Additional Information concerning Consensual Relationships \(1270.5 A\)](#)

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**Former Wright Way Policy:**

8065

## 1270.1 Introduction

Wright State University is committed to maintaining a safe and healthy educational and work environment in which no member of the university community is, on the basis of actual or perceived sex, gender, gender identity, gender expression and or sexual orientation, excluded from participation in, denied the benefits of, or subjected to discrimination in any university program or activity.

Nothing in this policy shall be construed to abridge academic freedom and inquiry, principles of free speech, any Collective Bargaining Agreements, the right to redress to the Ohio Civil Rights Commission or the Office for Civil Rights, or the university's educational mission.

The respondent is presumed to be innocent or 'not responsible' until such time that the respondent is found responsible and issued sanctions. The standard used in determining responsibility is by preponderance of the evidence.

## 1270.2 Scope

This policy applies to all members of the University community, including but not limited to, faculty, staff, registered students and student organizations, vendors, volunteers, and visitors and covers behavior both on and off campus.

However, behaviors described in section 1270.4 are specifically prohibited by Title IX and only apply to behaviors that occur as a part of a University education program or activity within the United States. Allegations in a formal complaint

that do not meet the threshold criteria under Title IX must be dismissed. However, the University may still address the allegations through other behavioral or conduct policies and processes.

## 1270.3 Jurisdiction

An individual who violates the policy may also be charged criminally in cases of behavior that is in violation of the law. The University, has the option at its sole discretion, may pursue disciplinary action against an individual while the person is also subject to criminal proceedings. The University reserves this right even in cases where criminal charges are pending, reduced, or dismissed.

## 1270.4 Prohibited Behaviors under Title IX of the Civil Rights Act (See Scope 1270.2)

**Sexual Harassment** - unwelcome, sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct<sup>[1]</sup> that takes place on campus or as a part of a education program or activity within the United states and satisfies one or more of the following;

### A. Sexual Violence.

1. **Sexual Assault** (any sexual act directed against another person without consent)
2. **Dating Violence**
3. **Domestic Violence**
4. **Sex/Sexual based stalking**

B. **Quid Pro Quo** is a favor or advantage expected in return for something. Specifically, it is when a University employee conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. This includes but is not limited to 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. Examples of aid or benefits includes actual or promise of positive ratings, grades, or other forms of evaluation.

C. **Unwelcome Sexual Conduct** determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to WSU's education program or activity. This includes discriminatory acts, sex/gender-based hazing, causing harm, retaliation, and repeated behaviors of a sexual nature whereby the victim has indicated that the behavior should stop or is unwelcome.

<sup>[1]</sup> Purpose of intent is not an element of sexual harassment.

## 1270.5 Sexual Misconduct

The following behaviors are prohibited by Wright State University regardless of the behaviors described falling within our outside of the scope of Title IX. However, in cases where the reported behavior meets the threshold of 1270.4, the case will be managed under 1270.4 guidelines

A. **Policy for Consensual Romantic and/or Sexual Relationships** Romantic and/or sexual relationships between students and Faculty/Staff, and between certain employees are prohibited due to the impact they can have on the integrity of the educational system as a whole as well as the dynamic power structure that can be at play in such relationships. Exceptions to these prohibitions can be made in cases of preexisting relationships or where the prohibition restricts educational or research opportunities or induces economic hardship for the subordinate. Exceptions require disclosure, approval, and recusal. *(For details & rationale see appendix F)*

1. **Between Faculty/Staff and Undergraduate Students:** A sexual or romantic relationship between an employee (faculty or staff) and an undergraduate student is prohibited regardless of department, school, or college affiliation

2. **Between Faculty/Staff and Graduate/Professional Students:** A sexual or romantic relationships between an employee (faculty or staff) and a graduate or professional student is prohibited whenever both parties are affiliated with the same graduate field or degree program
3. **Between Employees:** Consensual relationships between employees (faculty and staff) where inherent unequal positions of authority exist the person in the position of greater authority is prohibited from exercising any supervisory or evaluative function over the other person in the relationship. Additionally, employees who find their relationship meeting the criteria of the policy is required to disclose the relationship either to Human Resources or the Office of the Provost so that safeguards can be implemented.
4. **Pre-existing relationships:** Any employee (faculty or staff) who has, or has had, a preexisting sexual or romantic relationship with a current student, current postgraduate, or fellow employee is prohibited from exercising academic or professional authority over that person.

B. **Inappropriate sex/gender-based behavior** that fails to meet the criteria under section 1270.4 but is nonconsensual and objectively offensive is not permitted. Such behaviors can result in disciplinary action under the policies, rules, procedures and professional standards for faculty/staff and students. Sexual Violence, Quid Pro-quo and unwelcome sexual conduct as defined in Section 1270.4 but that does not meet the threshold Title IX criteria will be adjudicated under this section of the policy through the appropriate responding office (Student Conduct, Human Resources, and the Provost Office.) Examples of inappropriate conduct include but are not limited to the display of nudity in public spaces where such nudity is not part of an art display, catcalling, and display of signs or banners with inappropriate sexual content.