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# Interim Sexual Misconduct Protocol for Students

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## Scope: Who is Covered by this Policy?

Undergraduate and Graduate Students

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## Policy

### Introduction

Miami University is committed to maintaining a healthy and safe learning, living and working environment and to creating an environment that promotes responsibility, dignity and respect in matters of sexual and interpersonal conduct.

This Protocol addresses sexual misconduct complaints arising under the U.S. Department of Education's Title IX regulations (34 C.F.R. Part 106) and complaints arising under Miami University's Code of Student Conduct (collectively referred to as Sexual Misconduct violations). Sexual Misconduct is a broad term that includes sexual harassment, sexual violence, dating violence, stalking and sexual exploitation. Sexual Misconduct is strictly prohibited and will not be tolerated. Any person, regardless of gender, gender identity or sexual orientation can experience sexual misconduct. The University is dedicated to addressing Sexual Misconduct by providing:

- Education and prevention programming to inform the community about the risks and myths that contribute to sexual misconduct as well as bystander training.
- Assistance and support, including non-disciplinary supportive measures and accommodations.
- Procedures students should follow if a sexual misconduct crime occurs, including crimes of domestic violence, dating violence, sexual assault or stalking.
- Processes for an impartial investigation, adjudication and resolution that include appropriate disciplinary sanctions for those found responsible for Sexual Misconduct violations, including but not limited to possible sanctions of suspension and dismissal.
- When a Sexual Misconduct violation does occur, the University will take appropriate steps to respond so that every complainant receives appropriate support. Respondents are presumed not responsible and treated as responsible only after they are determined to be responsible following a hearing. University officials serve impartially without bias for or against any party.

Miami's Protocol is designed to comply with applicable state and federal laws. Miami University reserves the right to modify or deviate from this Protocol when, in the sole judgment of the University, circumstances warrant in order to protect the rights of the involved parties or to comply with the law. This Protocol is not intended to, and will not be enforced so as to, infringe upon First Amendment rights, including the right to academic freedom.

This Protocol describes how the University typically responds to reports of Sexual Misconduct involving students. It also:

- Provides guidance for students who have been impacted by Sexual Misconduct.

- Outlines the University's student disciplinary response to alleged Sexual Misconduct
- Identifies individuals that are available to provide support
- Identifies the individuals responsible for the Protocol
- Provides information on available support programs within the University

When the complainant and the respondent do not share the same status at the University (e.g., one party is a student and one party is a faculty member) the following guidelines apply:

- Any report of an alleged Sexual Misconduct Violation by a student will follow this Protocol for Students.
- Any report of an alleged Sexual Misconduct Violation by an employee or non-student will follow the Title IX Protocol for Employees.
- At the time of filing a Title IX Sexual Misconduct formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of Miami University. At the time of filing a Non-Title IX Sexual Misconduct formal complaint there is no requirement for a complainant to be participating or attempting to participate in an educational program or activity at Miami University.

## **I. Definitions**

### **A. Complainant**

Any person who is reported to have experienced a sexual misconduct violation.

### **B. Consent**

Consent is when a person agrees or gives permission to another person to engage in certain sexual acts.

- Consent is a knowing, and voluntary verbal or non-verbal, agreement between both parties to participate in each and every sexual act.
- Consent to one sexual act does not imply consent to other or all sexual acts.
- Conduct will be considered "non-consensual" if no clear consent, verbal or non-verbal, is given. The absence of "no" does not mean "yes."
- A person has the right to change one's mind at any time. In other words, consent can be withdrawn at any point, as long as the person clearly informs the other party of the withdrawal.
- Taking drugs or consuming alcohol does not relieve the obligation to obtain consent.
- A person is not required to physically or otherwise resist an aggressor.

### **Effective Consent**

- Effective consent can be given by words or actions so long as the words or actions create a mutual understanding between both parties regarding the conditions of the sexual activity. Ask: "Do both of us understand and agree regarding the who, what, where, when, why, and how this sexual activity will take place?"
- When a person affirmatively demonstrates that: they do not want to have sex; they want to stop any sort of sexual act; or they do not want to go any further, the other party must stop completely. Continued pressure after that point can be coercive.

### **Consent in Relationships**

- Current or past sexual relationships or current or past dating relationships are not sufficient grounds to constitute consent.
- Regardless of past experiences with other partners or a current partner, consent must be obtained.
- Consent can never be assumed, even in the context of a relationship. A person has the right to say "no" and has the right to change their mind at any time.

- A person cannot legally give consent (no matter what they might say) when:
  - The person is substantially impaired due to alcohol or drugs, incapacitated or unconscious.
  - The person's ability to resist or consent is substantially impaired because of a physical or mental condition.
  - The person was coerced due to force, threat of force or deception or when the person was beaten, threatened, isolated or intimidated.

### **C. Emergency Removal**

The removal of a respondent from the University's educational programs or activities on an emergency basis if it is determined that the respondent poses an immediate threat to the physical health and or safety of any student or other individual.

### **D. Formal Complaint**

A formal document ([https://cm.maxient.com/reportingform.php?MiamiUniv&layout\\_id=6](https://cm.maxient.com/reportingform.php?MiamiUniv&layout_id=6)) filed by a complainant alleging sexual misconduct against a respondent and requesting that the University investigate the allegation of Sexual Misconduct. Formal Complaints may also be filed by a Title IX Coordinator. When a Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the investigation or any process which may result from an investigation.

### **E. Hearing**

See the XIII.Hearing Process.

### **F. Party/Parties**

After a Formal Complaint is filed, a Complainant and a Respondent each become a "Party" with respect to the complaint. The plural "Parties" may also be used when referring to more than one party.

### **G. Persons with Authority to Initiate Corrective Action**

- Office of Community Standards- Director, Associate and Assistant Directors
- Title IX Investigator
- Dean of Students
- Title IX Coordinator
- Deputy Title IX Coordinators
- Office of Equity and Equal Opportunity Director and Associate Directors
- Miami University Police Officers
- Office of Residence Life- Director, Associate Directors and Assistant Directors
- Vice President for Student Life
- Associate and Assistant Vice Presidents for Student Life
- Cliff Alexander Office- Director, Associate Directors, and Assistant Directors
- Intercollegiate Athletics- Coaches and Trainers

### **H. Report**

A verbal or written account of alleged sexual misconduct made to a person with authority to initiate corrective action. A report can be submitted by mail, by email, in person, by telephone, or by using the electronic incident reporting form. Reports may be made at any time, even after regular business hours.

### **I. Respondent**

Any student alleged to have engaged in conduct prohibited by this policy. A respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Student Conduct Process.

## **J. Sexual Misconduct**

Includes sexual harassment, sexual violence, dating violence, stalking and sexual exploitation under the U.S. Department of Education's Title IX regulations ( 34 C.F.R. Part 106) and complaints arising under Miami University's Code of Student Conduct and any adjudicated violation of criminal sex offense in Ohio.

## **K. Student**

A person who is participating in or attempting to participate in any of the University's educational program or activities. This includes enrolled students, applicants for admission, those students who may have withdrawn or taken a leave of absence due to sexual misconduct, and students who withdraw while a complaint is being investigated or heard.

## **L. Supportive Measures**

Non-disciplinary, non-punitive individualized measures offered to preserve access to education without unreasonably burdening the respondent. A formal complaint is not required for a complaint to receive supportive measures.

## **M. Retaliation**

Any act of intimidation or coercion, discrimination or threat undertaken for the purpose of interfering with any right under this Protocol or Title IX. This includes any adverse action that is taken because a person has made a report or complaint, testified, assisted, participated or refused to participate in any manner in any investigation or hearing or other proceeding under this Protocol. The filing of a complaint under the Code of Student Conduct that does not involve sexual misconduct, but arises out of the same facts and circumstances as the sexual misconduct report or complaint, may constitute retaliation if it is filed for the purpose of interfering with any right or privilege secured by Title IX or this Protocol.

## **N. Title IX Coordinator**

The designated University official who is primarily responsible for coordinating the University's compliance with Title IX and other alleged sexual misconduct.

## **O. Deputy Title IX Coordinator**

The designated University official who is primarily responsible for responding to reports of sexual misconduct.

# **II. Sexual Misconduct Prohibited by Title IX and University Policy**

## **A. Title IX Sexual Misconduct Violations**

To constitute a Title IX sexual misconduct violation, the misconduct must have occurred: within the geographical territory of the United States of America; and while the complainant was participating in or attempting to participate in an educational program or activity of the University, including locations, events or circumstances in which the University exercised substantial control over both the respondent and the context in which the misconduct occurred and includes any building owned or controlled by a recognized student organization ( e.g. fraternity house).

## **B. Sexual Harassment**

Conduct on the basis of sex including gender, gender identity or expression, or sexual orientation that meets one of the following:

1. An employee of the University conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct that a reasonable person would determine to be so severe and pervasive and objectively offensive that it effectively denies a person equal access to the University's education programs or

activities; or

3. Cyber-Harassment-the use of the internet, email or other electronic communications to harass a person on the basis of their sex including communicating a threat of harm.

## **C. Sexual Assault**

Any sexual act directed against another person without their consent, including instances where the person is incapable of giving consent.

1. Non-consensual sexual intercourse, any sexual penetration however slight, with any body part or object by any person upon any person without consent (commonly referred to as rape.) Non-consensual sexual intercourse includes rape, incest and statutory rape.
2. Non-consensual sexual contact, any intentional sexual touching, with any body part or object by any person upon any person without consent including forcible fondling. Non-consensual sexual contact includes the touching of any body part for sexual gratification, without consent or where the person is incapable of giving consent because of age or temporary or permanent mental incapacity.

## **D. Dating Violence**

An act of violence committed by a person who is or has been in a social relationship of an intimate or romantic nature with the victim. The existence of such a relationship shall be determined based on consideration of the following factors:

1. Length of relationship.
2. Type of relationship.
3. Frequency of interaction between the persons involved in the relationship.

## **E. Domestic Violence**

An act of violence committed by a current or former spouse or intimate partner of the victim or a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner or person similarly situated, or by a parent with whom the victim shares a child in common.

## **F. Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Stalking includes repeatedly following, harassing, threatening or intimidating another by telephone, mail, electronic communication, social media or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death. For the purpose of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person's property.
2. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
3. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

# **III. Sexual Misconduct Prohibited by University Policy**

## **A. Non-Title IX Sexual Misconduct**

Non-Title IX sexual misconduct need **Not** have occurred:

- Within the geographical territory of the United States of America; or
- While the complaint was participating in or attempting to participate in an educational program or activity of the University, including locations, events or circumstances in which the University exercised substantial

control over both the respondent and the context in which the misconduct occurred and includes any building owned or controlled by a recognized student organization ( e.g. fraternity house).

## **B. Sexual Harassment**

Unwelcome conduct on the basis of sex, including gender, gender identity or expression, or sexual orientation, that is sufficiently severe or pervasive to adversely impact a term or condition of a person's ability to participate in the University's educational programs or activities. Sexual harassment includes conduct that unreasonably interferes with a person's work performance or creates an intimidating, hostile or offensive working, learning or living environment. This also includes cyber harassment as defined in II.B.3.

## **C. Sexual Assault**

Any sexual conduct directed against someone without that person's consent. This includes non-consensual sexual intercourse or other sexual contact/touching.

## **D. Sexual Exploitation**

Taking non-consensual, unjust or abusive sexual advantage of another person. Examples include voyeurism, non-consensual recording of sexual activity, going beyond the bounds of consent (e.g., allowing another to surreptitiously watch otherwise consensual sexual activity).

## **E. Indecent Exposure**

The exposure of the private or intimate parts of the body in a lewd manner in public or in private when the respondent may be readily observed.

## **F. Dating Violence, Domestic Violence and Stalking**

As defined in II.D-F.

## **IV. Reporting Violations**

Reports of sexual misconduct should be promptly shared with the appropriate Title IX Coordinator. Reports can also be made voluntarily by any university community member or individual who is directly involved in, observes, or reasonably believes that sexual misconduct may have occurred.

Making a report to the university does not preclude the individual from filing a report of a crime with law enforcement nor does it extend time limits that may apply in criminal processes. Individuals may request assistance from the Title IX coordinator or designee to notify law enforcement.

Individuals, including members of the university community, may submit reports anonymously via the following resources. Anonymous reports do not fulfill an employee's duty to report (<https://www.miamioh.edu/policy-library/employees/general-employment/non-discrimination/duty-to-report.html>). The university's Anonymous Reporting Line via telephone at 1-866-294-9544 or <https://secure.ethicspoint.com/domain/media/en/gui/13035/index.html> (<https://secure.ethicspoint.com/domain/media/en/gui/13035/index.html>).

### **Reports Involving Employees**

Ms. Kenya Ash, Title IX Coordinator and Director of the Office of Equity and Equal Opportunity

Phone: [\(513\) 529-7157](tel:5135297157);

Email: [ashkd@miamioh.edu](mailto:ashkd@miamioh.edu) (<mailto:ashkd@miamioh.edu>)

Online: <https://www.miamioh.edu/diversity-inclusion/oeeo/index.html> (<https://www.miamioh.edu/diversity-inclusion/oeeo/index.html>)

Mail: 219 E Spring Street, Hanna House, Oxford, OH 45056

### **Reports Involving Students on Oxford or Luxembourg Campuses**

Ms. Jaymee Lewis-Flenaugh, Interim Deputy TIX Coordinator;

Phone: (513) 529-1870;

Email: [TitleIX@miamioh.edu](mailto:TitleIX@miamioh.edu) (<mailto:TitleIX@miamioh.edu>);

Online: <https://miamioh.edu/campus-safety/sexual-assault/> (<https://miamioh.edu/campus-safety/sexual-assault/>);

Mail: 451 E Spring Street, Warfield Hall 104, Oxford, OH 45056

## **Reports Involving Students on Regional Campuses, Including VOA**

Dr. Bennyce Hamilton, Deputy Title IX Coordinator for Regional Students

Phone: (513) 785-3283

Email: [hamiltbe@miamioh.edu](mailto:hamiltbe@miamioh.edu) (<mailto:hamiltbe@miamioh.edu>)

Online: <https://miamioh.edu/campus-safety/sexual-assault/> (<https://miamioh.edu/campus-safety/sexual-assault/>)

Mail: 1601 University Boulevard, Hamilton, Ohio 45011

Any questions regarding the duty to report should be directed to the Office of Equity and Equal Opportunity at (513) 529-7157.

## **V. Limited Amnesty**

While the University does not condone underage drinking, illegal drug use, or violation of other University policies, it considers addressing sexual misconduct and interpersonal violence to be of paramount importance. To encourage reporting and adjudication of sexual misconduct and interpersonal violence, Miami University extends limited amnesty to both parties. The University will generally not seek to hold the student responsible for a violation of the law (e.g., underage drinking or illegal drug use) or Code of Student Conduct during the period immediately surrounding the alleged sexual misconduct or interpersonal violence.

## **VI. Supportive Measures**

Miami University provides a number of resources and supportive measures for students. Students are encouraged to seek support and obtain appropriate medical attention. Upon receipt of a report, the Deputy Title IX Coordinator provides written notification to students about existing counseling, health, mental health, advocacy services, legal assistance, visa and immigration assistance, student financial aid and other services available both within the University and the community. The University provides written notification to students about options for and available assistance in, and how to request changes to academic, living, transportation and working situation or protection measures.

This may be requested by the Complainant, the Respondent, a witness, or other impacted members of the University community. Supportive Measures are available regardless of whether a formal complaint is filed.

Examples of Supportive Measures include:

1. Academic support services and accommodations, including the ability to reschedule exams and assignments, change in class schedule, or tutoring;
2. Short- and long-term housing accommodations (available to Oxford students);
3. On-campus counseling services and/or assistance in connecting to community-based counseling services;
4. Provide transportation/parking options;
5. Assistance connecting to community-based medical services;
6. Assistance with completing the process of protecting a student's directory information at Miami University;
7. Work schedule or job assignment modifications (for University employment);
8. Mutual No Contact Directive;

9. Information about and/or assistance with obtaining personal protection orders; or

10. A combination of any of these measures.

The Deputy Title IX Coordinator will exercise discretion and sensitivity about sharing the identity of the student when arranging for supportive measures. Efforts will be made to maintain the confidentiality and privacy of the complainant unless one of the requested supportive measures requires revealing the identity of the complainant (e.g. a no contact directive). A student can access these services at any time, even if the student initially declined the service.

There may be times when the University must disclose some information about the student to a third party in order to provide supportive services. This information will be limited to only what is needed to ensure the supportive service is provided. When possible, the Deputy Title IX Coordinator will consult with the student regarding what and with whom the information will be shared prior to sharing the information. A determination of a Health and Safety Emergency under FERPA will take priority over supportive service privacy determinations.

For supportive measures involving Oxford campus and Luxembourg students, contact Ms. Jaymee Lewis-Flenaugh, Interim Deputy TIX Coordinator at 104 Warfield, Miami University, Oxford, Ohio 45056, [titleix@miamioh.edu](mailto:titleix@miamioh.edu) or at [513-529-1870](tel:513-529-1870).

For supportive measures involving Regional Campus students, and VOA students, contact the Deputy Title IX Coordinator for Regional Students, Dr. Bennyce Hamilton at 117 Rentschler Hall, 1601 University Boulevard, Hamilton, Ohio 45011, or 144 Johnston Hall, 4200 N. University Boulevard, Middletown, Ohio 45042, [513-785-3283](tel:513-785-3283) or [hamiltbe@miamioh.edu](mailto:hamiltbe@miamioh.edu) (<mailto:hamiltbe@miamioh.edu>).

Certain off-campus crisis intervention and assistance services are available to students who experience a Title IX violation 24-hours a day:

- The independent Women Helping Women at [513-381-5610](tel:513-381-5610) or toll-free at [877-889-5610](tel:877-889-5610) and on campus during office hours at the Warfield Hall 215 & 217 or [513-431-1111](tel:513-431-1111) or [513-846-8402](tel:513-846-8402) (call or text). Women Helping Women advocates for and supports students of all genders who experience a Title IX violation.
- The National Sexual Assault Telephone hotline is available 24 hours a day at 800-656-HOPE (4673). This hotline, operated by RAINN, connects a caller with a local RAINN-affiliate organization based on the first six digits of the caller's phone number.
- Domestic violence, dating violence and stalking support services, including assistance in reporting and advocacy, are available through the Dove House, YWCA Hamilton, 244 Dayton St., Hamilton, OH at [1-800-618-6523](tel:1-800-618-6523). Domestic violence services are also available through the National Domestic Violence Hotline at 1-800-799-SAFE (7233).
- Ohio's Sexual Violence Helpline is available at 1-844-OHIO-HELP (1-844-644-6435). This helpline is a confidential, statewide hotline dedicated to serving those who experience sexual assault and relationship violence.
- A student may be financially impacted by a Title IX violation. Financial services may be available through the [Ohio Attorney General's Victim Compensation Program \(https://www.ohioattorneygeneral.gov/Individuals-and-Families/Victims\)](https://www.ohioattorneygeneral.gov/Individuals-and-Families/Victims).
- For off-campus legal assistance, contact Legal Aid Society of Southwest Ohio, [513-241-9400](tel:513-241-9400) or toll-free [1-800-582-2682](tel:1-800-582-2682). The Legal Aid Society of Southwest Ohio provides legal services to those struggling to recover from domestic violence, sexual assault and stalking. Legal services include restraining orders, child support, custody, divorce, visitation restrictions, visa adjustments and division of debts and property.
- There are certain legal protections that may be available to immigrants or international students in the form of Visas, particularly the U visa and the T visa. The U visa provides temporary legal status and work eligibility for victims of certain crimes (including domestic violence, sexual assault, human trafficking, involuntary servitude and other violations). The T visa provides victim of human trafficking and immediate family members with temporary legal status and work eligibility. These visas can be applied for when agreeing to assist law enforcement, unless an individual meets one of the exceptions. Additional information is available through the U.S. Department of Homeland Security U.S. Citizenship and Immigration Services. For assistance, with this or

other immigrant status questions, please contact Women Helping Women, [513-381-5610](tel:513-381-5610) or toll-free at [877-889-5610](tel:877-889-5610), or Legal Aid Society of Southwest Ohio, [513-241-9400](tel:513-241-9400) or toll-free [1-800-582-2682](tel:1-800-582-2682).

## VII. Confidentiality

Miami University will preserve the students' and other necessary parties' confidentiality to the extent possible and allowed by law.

### A. Confidential Reporting

A person may speak confidentially with certain persons in legally protected roles including the following:

- Women Helping Women (rape crisis counselors) are available 24 hours a day at [513-381-5610](tel:513-381-5610) or toll-free at [877-889-5610](tel:877-889-5610) and on campus during office hours at Warfield Hall 215 & 217 or [513-431-1111](tel:513-431-1111) or [513-846-8402](tel:513-846-8402) (call or text).
- Licensed mental health professionals from Miami's Student Counseling Service (513-529-4634); after hour's emergencies by calling the Miami University Police at [513-529-2222](tel:513-529-2222) or 911 and asking for the on-call counselor.
- Medical staff at Miami's Student Health Center (513-529-3000).
- Off-campus with clergy, counselors and physicians, including McCullough-Hyde Memorial Hospital (513-523-2111), where a Sexual Assault Nurse Examiner (SANE) is available.

A confidential report does not result in a report to law enforcement or a University investigation. It will not be reported to the Title IX Coordinator, a Deputy Title IX Coordinator or to the Office of Community Standards.

### B. Non-Confidential Reporting and Recordkeeping

Ohio law requires those not in a legally protected role with knowledge of a felony to report it to law enforcement. Miami personnel, including the Title IX Coordinator, Deputy Title IX Coordinators, Resident Assistants and Office of Residence Life professional staff, are required to notify the Miami University Police of any report of sexual misconduct or interpersonal violence. Conduct reported to the Miami University Police that may be a Title IX violation will be reported to the appropriate Deputy Title IX Coordinator. A report to the Miami University Police or other law enforcement agency does not require the pursuit of criminal charges. Neither the complainant nor the respondent is under any obligation to speak with the law enforcement authorities, even when the conduct is reported to them. Miami University will, upon request, assist a student in notifying law enforcement authorities.

For sexual misconduct or interpersonal violence that may also constitute a criminal offense that **occurred on the Oxford campus**, contact the Miami University Police Department directly at 911 (or 9-911 from a campus phone) or [513-529-2222](tel:513-529-2222) (non-emergency) to file a police report. Miami University Police officers will respond quickly, with sensitivity and compassion (see [Promises to Victims of Crime](https://miamioh.edu/promises-to-victims-of-crime) (<https://miamioh.edu/police/services/victimservices/index.html>)). Regional Campus students should report to local law enforcement (Hamilton Campus- Hamilton Police at [513-868-5811](tel:513-868-5811), Middletown Campus- Middletown Police [513-425-7700](tel:513-425-7700), VOA- West Chester Police, [513-777-2231](tel:513-777-2231), Luxembourg- Police Grand-Ducale, Luxembourg, +352 4997-1)

To report a criminal offense that **occurred off-campus**, contact the local police in the area the offense occurred or call 911 (emergency).

Upon request, a Deputy Title IX Coordinator and Miami University Police will assist a student in obtaining protection or restraining orders.

Upon request, a Deputy Title IX Coordinator or the Miami University Police will assist students in notifying the Oxford Police or other appropriate police department of an off-campus offense.

For definitions of criminal offenses, please see Appendix A.

The Miami University Police, the Deputy Title IX Coordinators and the Oxford Police Department share information on a need-to-know basis under an [Information Sharing Agreement \(PDF\)](https://miamioh.edu/_files/documents/police/Mutual_Aid_OPD_MUPD_Info_Sharing_508.pdf) ([https://miamioh.edu/\\_files/documents/police/Mutual\\_Aid\\_OPD\\_MUPD\\_Info\\_Sharing\\_508.pdf](https://miamioh.edu/_files/documents/police/Mutual_Aid_OPD_MUPD_Info_Sharing_508.pdf)).

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

Even if a party does not specifically request their information remain confidential, the University will seek to protect the confidentiality of both parties. When possible, the University will complete publicly available records without identifying personal information about the parties (e.g., first and last name, home or physical address, contact information email, telephone, fax, social security number, driver's license number, passport number, student identification number, date of birth, racial or ethnic background or religious affiliation). The Annual Security and Fire Safety Report, Crime Log and any other publicly available documents will not disclose a student's name, address, contact information, social security number, driver's license number, passport number, student identification number or any other personally identifiable information.

## **C. Police Reports**

Police reports are open for inspection and copying under Ohio's Public Records Act. The extent to which Miami University can protect the identity of a student contained in police reports is not absolute; however, the University uses its best efforts to protect the identity of the complainant and the intimate details of the report. Ohio law specifically permits the University to withhold the identity of an uncharged suspect but requires the release of the identity of a charged suspect.

Initial police incident reports and Campus Security Authority reports do not include personally identifying information (e.g., first and last name, home or physical address, contact information email, telephone and fax, social security number, driver's license number, passport number, student identification number, date of birth, racial or ethnic background or religious affiliation).

A student arrested for certain criminal offenses, including rape, sexual battery, gross sexual imposition and domestic violence, may be subjected to a "1219" proceeding. "1219" refers to the section of Ohio law which provides for the suspension and dismissal of students arrested and convicted of crimes of violence that occur on or affecting University persons or property. The initiation of a "1219" proceeding against a student does not prohibit the University from investigating and taking University disciplinary action against the same student under the Code for the same conduct that gave rise to the "1219" proceeding. Additional information about "1219" procedures is in the Code of Student Conduct.

## **D. University Records-FERPA**

The Family Educational Rights and Privacy Act (FERPA) protects students' educational records, including reports made to the Title IX Coordinator, a Deputy Title IX Coordinator or the Office of Community Standards. FERPA prohibits the University from releasing these records to persons outside the institution without the student's consent except in response to a lawful subpoena or as otherwise required by law. However, in some instances, if the student is found responsible for violating the Code of Student Conduct-Sexual Misconduct and Interpersonal Violence or Physical or Mental Abuse or Harm, the University may release the following information to anyone:

1. Name of the student found responsible (but not the identity of the complainant)
2. Code of Student Conduct violation
3. Sanctions imposed as a result of the disciplinary proceedings

## **E. Safety Bulletins and Emergency Notifications**

The Miami University Police Department (MUPD) is responsible for coordinating Clery Act compliance for Miami University. In collaboration with other campus units, MUPD's Clery Coordinator is responsible for: collecting crime data and information, compiling the Annual Security Report and Annual Fire Safety Report, publishing the daily Clery Crime and Fire Log, coordinating the identification and training of MU's Campus Security Authorities, and providing guidance for the issuance of safety bulletins and emergency notification.

If a report of sexual assault, dating/domestic violence, or stalking indicates there is an immediate threat to the health or safety of persons on campus or that an on-going serious or continuing threat to the campus community exists, an Emergency Notification or a Safety Bulletin will be issued. The purpose of a Safety Bulletin is to enable persons to protect themselves, heighten safety awareness and seek information that will lead to an arrest and conviction of the perpetrator. **The Emergency Notification or Safety Bulletin does not include names or other personally identifying information.**

For more information on the Clery Act, Safety Bulletins and Emergency Notifications, see the [Annual Security and Fire Safety Report \(https://miamioh.edu/campus-safety/annual-report/index.html\)](https://miamioh.edu/campus-safety/annual-report/index.html).

Statistics regarding reports of sexual misconduct and interpersonal violence are included in the Annual Security and Fire Safety Report/Crime Statistics at [Crime Statistics \(https://miamioh.edu/campus-safety/annual-report/crime-stats/index.html\)](https://miamioh.edu/campus-safety/annual-report/crime-stats/index.html).

The University does not publish the name of crime victims or other identifiable information regarding victims in the Daily Crime Log or in the annual crime statistics that are disclosed in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

## **VIII. No Contact Directives**

In the context of Title IX or Non-Title IX Sexual Misconduct, *No Contact Directives* are a supportive measure. The Dean of Students or designee may direct a student to have no contact with another individual for a specified period. No Contact Directives are automatically issued in cases of Title IX or other non-Title IX sexual misconduct. No Contact Directives will be issued as mutual and time-limited, meaning both parties involved are subject to the same restrictions for a specified period of time. No Contact Directives prohibit all forms of communication between designated students; direct or indirect, written, electronic, through a third party, or social media. Should a student fail to comply with a No Contact Directive, the student may be subject to disciplinary action for violating the Code of Student Conduct.

No Contact Directives are distinct and different from court-imposed restraining orders or protective orders as they only apply to enrolled students. A No Contact Directive is a University action and is not recognized by city, county or state law as a legal action. If a student wishes to pursue a civil protection order, they must make the request through an [appropriate court \(http://www.butlercountydrcourt.org/index.cfm?page=protectionOrders\)](http://www.butlercountydrcourt.org/index.cfm?page=protectionOrders).

## **IX. Emergency Removal and Appeal**

The respondent may be removed from the University's educational programs or activities on an emergency basis if the Assistant Dean of Students determines that the respondent poses an immediate threat to the physical health and or safety of any student or other individual. This determination may be appealed to the Dean of Students.

## **X. Investigation**

### **A. Formal Complaint**

Upon receipt of a formal complaint alleging a sexual misconduct violation the University will initiate an investigation. An investigation may also be initiated upon receipt of a formal complaint signed by a Title IX Coordinator. The Deputy Title IX Coordinator, in consultation with the University's Title IX Coordinator, may conduct a preliminary review of a report of sexual misconduct and will weigh the following factors in determining whether to file a formal complaint:

- Seriousness of the alleged violation (including whether the violation involved the use of a weapon, other illegal activity, illegal drug or intoxicants, multiple respondents, etc.).
- Whether there have been other complaints/reports made regarding the respondent (e.g., a history of arrests, a record of misconduct at Miami or other institutions).
- Availability of other information to support the alleged violation.
- Whether the circumstances suggest there is an increased risk of the respondent committing additional sexual misconduct violations (e.g., a pattern of behavior).
- Whether the respondent has threatened the complainant or others.
- Safety of the complainant and others.

### **B. Notice of Allegations**

A respondent has a right to know the name of the complainant and information regarding the nature of the allegations in order to defend against the formal complaint. Thus, the University will not be able to both investigate a report and maintain the confidentiality of the complainant. Upon receipt of a formal complaint, the University will issue a written Notice of Allegations to the parties to initiate the investigation. Written notification of allegations will include:

- Notice of the investigation and hearing process, including any informal resolutions which may be available;
- A copy of the formal complaint received by Miami University;
- The identities of the parties involved in the incident, if known;
- The conduct allegedly constituting sexual misconduct and the specific sections of the Code of Student Conduct allegedly violated;
- The date and location of the alleged incident, if known;
- A copy of the Code of Student Conduct;
- A statement that the respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility has been made at the conclusion of the hearing process;
- The potential sanction(s) which Miami University may implement following any determination of responsibility;
- A statement that the student may be accompanied throughout the process by an advisor of their choice who may be, but is not required to be, an attorney;
- A statement that the complainant and respondents may request to inspect and review evidence;
- A statement informing the parties that it is a violation of the "Dishonesty" section of the Code to knowingly make false statements or knowingly submit false information during the investigation or any resulting process under this Code;
- The date, time and location of the initial investigatory interview(s);
- A statement informing the parties of the process which allows for the temporary delay of the investigation or any resulting process, or the limited extension of time frames for good cause. Good cause may include the absence of parties, a party's advisor, or witnesses, concurrent law enforcement activity, or the need to accommodate language assistance or accommodation of disabilities. The timeline may also be affected by the winter or spring break periods and summer or winter terms;
- A statement that if, in the course of an investigation, Miami University decides to investigate allegations of a Sexual Misconduct Violation or any other Code of Student Conduct violation about the complainant or respondent that are not included in the Notice of Allegations, Miami University will provide notice of the additional allegations to the parties whose identities are known; and
- The identity of the investigator.

### **C. Investigator Conflicts of Interest/Bias**

An investigator may not have a conflict of interest or bias for or against complainants or respondents generally or any individual complainant or respondent. If a party believes that the investigator has a conflict of interest or bias that party may, within 3 days of receipt of the Notice of the Allegations, file a request with the Director of the Office of Community Standards, asking that a different investigator be assigned, setting forth in sufficient detail the basis for the request. The decision of the Director is final, subject to appeal under P. Appeals.

### **D. Mandatory Dismissal as a Title IX Sexual Misconduct Case**

If an investigation determines that the alleged behavior does not constitute sexual misconduct under the U.S. Department of Education's Title IX Regulations, in that it did not occur while the complainant was participating or attempting to participate in an educational program or activity of the University, or did not occur within the geographical territory of the United States, the complaint will be dismissed. Mandatory dismissals may be appealed in writing within 5 class days of the dismissal by either party to the Director of the Office of Community Standards.

Cases dismissed as Title IX Sexual Misconduct may proceed as Non-Title IX Sexual Misconduct if the alleged misconduct meets one of the definitions therein (see Non-Title IX Sexual Misconduct definitions).

## **E. Review of Evidence**

The parties will have equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including all relevant evidence, including both those that tend to prove the allegations or absolve the respondent.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on Miami University and not on the parties. Privileged medical and treatment records may only be accessed, considered, disclosed or otherwise used by Miami University with a party's written consent to do so

## **F. Draft Report**

Upon completion of the draft of the investigation report, the draft report will be sent to each party and the party's advisor (if any). The purpose of the draft report is to provide both parties with an equal opportunity to inspect, review, and comment on any evidence relevant to the allegations raised in the formal report. The parties will have at least 10 days to submit a written response to the draft report. Written responses, if any, received prior to the deadline will be considered by the investigator prior to completion of the final investigation report.

## **G. Report**

In the investigation report the Investigator will summarize relevant evidence and will either find reasonable basis to proceed to hearing for some or all of the allegations made in the formal complaint, or no reasonable basis to proceed resulting in a dismissal of the formal complaint. If the investigator finds that the matter should proceed to a hearing, the specific sections allegedly violated will be listed as charges in the investigation report.

## **XI. Consolidation of Complaints**

Miami University may consolidate formal complaints of allegations of Sexual Misconduct Violations by a complainant against more than one respondent, or by more than one complainant against one or more respondents, where the allegations of Sexual Misconduct arise out of the same facts or circumstances or course of conduct.

## **XII. Permissive Dismissal**

Miami University may, at any time, dismiss a complaint of Sexual Misconduct when:

- A complainant notifies the Title IX Coordinator, in writing, that they would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled in or employed by Miami University; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Please note that a complaint that is dismissed as Title IX Sexual Misconduct **may** still be considered as an alleged violation of Non-Title IX Sexual Misconduct if reasonable cause is found through an investigation and the complainant agrees to participate in the student conduct process.

## **XIII. Hearing Process**

### **A. Notice of Hearing**

If an investigation results in a hearing regarding alleged violations of Title IX Sexual Misconduct or Non-Title IX Sexual Misconduct, the parties will receive a Notice of Hearing at least ten (10) business days prior to the hearing. The notice will include:

1. The conduct allegedly constituting Title IX or Non-Title IX Sexual Misconduct and the specific sections of the Code of Student Conduct allegedly violated;
2. A copy of the Code of Student Conduct;

3. A statement that the respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility has been made at the conclusion of the student conduct process;
4. The potential sanction(s) which Miami University may implement following any determination of responsibility;
5. A statement that the student may be accompanied throughout the process by an advisor of their choice who may be, but is not required to be, an attorney;
6. A statement that the parties may request to inspect and review evidence;
7. A statement informing the parties that it is a violation of the "Dishonesty" section of the Code to knowingly make false statements or knowingly submitting false information during the investigation or any resulting process under this Code;
8. Names of the members of the Board who will be determining responsibility in the case;
9. A statement informing the parties of the process which allows for the temporary delay of the student conduct process, or the limited extension of time frames for good cause. Good cause may include the absence of parties, a party's advisor, or witnesses, concurrent law enforcement activity, or the need to accommodate language assistance or accommodation of disabilities. The timeline may also be affected by break periods and summer or winter terms.

## **B. Conflicts of Interest/Bias**

A Board member may not have a conflict of interest or bias for or against complainants or respondents generally or any individual complainant or respondent. If a party believes that any Board member has a conflict of interest or bias that party may within three (3) days of the Notice of Hearing, file a request with the Director of the Office of Community Standards, asking that a different Board member be assigned, setting forth in sufficient detail the basis for the request. The decision of the Director is final, subject to appeal under P. Appeals.

## **C. Rules of Decorum**

All parties participating in the process are asked to adhere to the following rules of decorum. If any party does not adhere to these rules, they may be barred from participation in the process.

1. Follow directives given by the Board and/or process advisor with regard to relevance of questions, order of procedures, and any disruptive behavior.
2. Treat other participants with courtesy and respect.
3. Ensure that questioning is relevant, respectful, and not abusive.
4. Participants will refrain from yelling, cursing, or otherwise disrupting the process.
5. Address all participants using their preferred gender pronouns and name.

## **D. Standard of Review**

The standard of review used to determine responsibility is a "preponderance" standard. This determination is based on the greater weight of the information and does not require a standard beyond a reasonable doubt.

## **E. Role of Advisors**

- Cross-examination in a hearing must be conducted by a party's advisor, not the party themselves.
- All parties have the opportunity to be accompanied to a meeting or student conduct proceeding by an advisor of their choice, which may be an attorney.
- If a party does not have an advisor at the hearing to conduct cross-examination, one will be provided for them by Miami University.
- If an advisor does not adhere to the rules of decorum and other expectations communicated as part of the student conduct process, they may be dismissed from the process by the hearing authority or Office of Community Standards and barred from further participation and another advisor will be appointed.

## **F. Live Hearing**

All parties providing information as part of a hearing must be physically present. At the University's discretion, any and all parties and witnesses may appear at the hearing virtually with technology enabling participants to simultaneously see and hear each other.

## **G. Board**

The decision-making Board in cases of alleged Title IX Sexual Misconduct and Non-Title IX Sexual Misconduct is made up of three (3) members who are either staff or faculty members at Miami University.

## **H. Cross-Examination**

- The advisor for each party will be permitted to ask questions of the other party and any witnesses. Questions will be asked directly of each participant, orally, and in real time.
- The Board will determine the relevance of each question asked before it is answered (see information below regarding relevance).
- If a person does not participate in the hearing to answer questions, the Board may not rely on any statements or other information related to that person. The Board may not use the lack of participation by any person as a factor in making determinations of responsibility.

## **I. Accommodation of Safety Concerns**

The University may accommodate concerns for personal safety, well-being and/or concerns regarding confrontation among the complainant, the employee and other witnesses by providing separate facilities, by using a visual screen or permitting participation by closed circuit TV, video conferencing or other means.

## **J. Determination of Relevance**

The Board will determine the relevance of questions asked during cross-examination prior to the questions being answered.

Questions and evidence about the complainant's prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent is responsible or the questions and evidence concern specific incidents between the parties and are offered to prove consent.

## **K. Credibility of Witnesses**

The Board is responsible for determining the credibility of the parties and witnesses. Credibility determinations of parties and witnesses will not be made based on the person's status within the University or at the hearing. The Board will not draw any inferences based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

## **L. Privilege**

Parties are not required to divulge any medical, psychological, or similar privileged records as part of the student conduct process.

## **M. Record of Hearing**

An audio recording of the hearing will be made by the Office of Community Standards. The recording will be made available to the parties upon request.

## **N. Written Notification of Outcome**

At the conclusion of the hearing the Board will adjourn to deliberate. The Board will provide written notification of the outcome of the hearing to all parties simultaneously. The written notification will include:

- The specific allegation that constitutes sexual misconduct
- Description of procedures that were followed, starting with the formal complaint and continuing through determination;

- The finding of facts that support the outcome;
- A conclusion applying the appropriate definition of the policies determined to have been violated;
- A rationale for each allegation regarding the determination of responsibility, sanctions of the respondent and remedies for the complainant; and
- Appeal procedures.

## O. Sanctions/Remedies

Sanctions include suspension and dismissal and vary depending on the severity of the violation and the respondent's conduct history. Possible sanctions for Sexual Misconduct violations include: dismissal, suspension, removal from campus housing, educational intervention, no-contact orders and/or restrictions from participating in intercollegiate athletics or co-curricular activities. The notice of allegation will contain the possible sanctions that may be imposed if the respondent is found responsible. Remedies will be provided to the complainant as appropriate to restore or preserve equal access to the university's educational programs or activities.

## P. Appeals

1. All parties have the opportunity to appeal the outcome of the hearing to the Vice President of Student Life. All appeals must be submitted in writing within five (5) business days of the receipt of the outcome of the hearing. Appeals must meet at least one of the following grounds:
  - a. A conflict of interest or bias exists on the part of the investigator, Board member(s), or Title IX coordinator;
  - b. New information exists that was not reasonably available at the time the determination was made that is determined to be substantial enough to have changed the outcome of the hearing;
  - c. A procedural irregularity in the hearing of the case occurred that is found to be substantial enough to have changed the outcome of the hearing, including failure to objectively evaluate all relevant evidence or error(s) related to determination of relevance; or
  - d. Inappropriate sanction.

All parties will be notified when an appeal has been filed and will be provided with a copy of the appeal and given an opportunity to respond prior to the appeal being submitted to the Vice President for Student Life. The appeal(s) and any responses will be submitted to the Vice President for consideration.

The outcome of the appeal will be sent in writing to all parties simultaneously and will contain the results and rationale for the appeal decision.

A decision becomes final when all parties are sent the outcome of the appeal, or when no appeal is filed by the deadline.

## Q. Timeline

The University is committed to a full and fair process for every student and student organization. The University's investigation, hearing, and resolution processes generally take up to 120 business days depending upon the complexity of the matter. We conduct prompt and thorough investigations- typically within 45 business days of receipt of the report; hearings within 45 business days and any available appeals are typically resolved within 30 business days. On occasion the process may be temporarily delayed for good cause including the absence of parties, a party's advisor, or witnesses, concurrent law enforcement activity (*see section: Legal Options*), or the need to accommodate language assistance or accommodation of disabilities. The timeline may also be affected by the winter or spring break periods and summer or winter terms.

## XIV. Retaliation

- Retaliation is strictly prohibited.
- Any act of retaliation, including but not limited to witness or party intimidation or coercion is a violation of the Protocol and the Code of Student Conduct.

## **XV. Miscellaneous**

### **A. Training**

Investigations and hearings are designed to provide a prompt, fair, and impartial resolution regarding an alleged sexual misconduct. The hearing will be held before a designated unbiased and impartial hearing board. All Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process are trained using materials that will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual misconduct. These individuals will receive training on:

- The definition of sexual harassment (as defined in 34 CFR §106.30);
- The scope of Miami University's education program and/or activity;
- How to conduct a grievance process including investigations, hearings and appeals;
- How to serve impartially (specifically avoiding prejudgment of the facts at issue, conflicts of interest, and bias);
- The technology to be used at a live hearing;
- Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual disposition or prior sexual behavior are not relevant; and
- Issues of relevance to create an investigative report that fairly summarizes relevant evidence (applies only to investigators).

**Training materials are posted on the website »**

### **B. Legal Options**

In addition to University disciplinary action, a person who engages in a Sexual Misconduct Violation may be the subject of criminal prosecution and/or civil litigation. A police report must be made for criminal prosecution to be considered by the local prosecuting attorney. The chances of successful prosecution are greater if the report is timely and is supported by the collection of medical and/or legal evidence.

Complaints may also be filed with the United States Department of Education Office for Civil Rights or by consulting an attorney at the person's own expense. See [How to File a Discrimination Complaint](http://www2.ed.gov/about/offices/list/ocr/docs/howto.html) (<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>).

### **C. Education and Prevention**

The Division of Student Life creates, supports and evaluates education and support programs aimed at the eradication of Title IX violations involving the Miami community. Through this commitment, the Division of Student Life shall educate students about the following:

- Sexual Misconduct Protocol for Students and the University's commitment to enforce it.
- Code of Student Conduct where applicable.
- Miami University prohibits the crimes of dating violence, domestic violence, sexual assault and stalking as those terms are defined for purposes of the Clery Act.
- Steps to minimize individual risk of sexual assault, sexual misconduct, domestic violence, dating violence and stalking, including crime reduction tips, safety tips and healthy relationship education.
- Process and responsibility for reporting Title IX violations.
- Awareness and resources for students who have experienced a sexual misconduct violation and for respondents.
- How to be a knowledgeable and supportive peer presence, including bystander intervention education that provides safe and positive options through recognizing, evaluating and determining one of three options: direct action, distraction or delegation.
- On-going wellness promotion programs that address issues including, but not limited to, sexual health and wellness, healthy relationships, violence prevention and drug and alcohol education.

- Comprehensive, ongoing universal campus-wide campaign: It's On Us. This campaign is committed to creating an environment that promotes responsibility, dignity and respect, conveying that each one of us has the power to prevent violence, can step up to help each other and has the ability to demonstrate love and honor by supporting and caring for our fellow Miamians.

Miami University requires all new incoming students to complete an online education program, through the education technology company Everfi. All other incoming students can access this prevention and awareness program, even if they are not required to take it. The program uses a population-level approach to educate all students on the issues, primary prevention and awareness associated with sexual assault and interpersonal violence, taking into account their unique perspectives and experiences, providing:

- Key definitions and statistics.
- Reflective and personalized content.
- Bystander skills and confidence-building strategies.
- Campus-specific policies, procedures and resources.
- Rich data summaries to inform future programming.

The Miami University Police foster a safe campus environment by doing the following:

- Providing safety and security patrols as part of regular University police/regional campus security responsibilities.
- Including Title IX Protocol information on its website and directly to those who elect to file a police report.
- Accurately maintaining and reporting statistics of Title IX violations as required by the Jeanne Clery Campus Security Act.
- Working with Facilities Management to provide adequate lighting on campus.
- Working with Telecommunications to provide sufficient emergency phones on campus.

Other information sources including the following:

- Annual Security and Fire Safety Report
- Sexual Assault, Sexual Misconduct, Interpersonal Violence, and Sexual Harassment
- If You or Someone You Know is a Victim/Survivor
- Resource Guide
- No-Hate Initiative
- No-Hazing Policy
- Alcohol, Drug, and Substance Abuse Policies
- Office of Student Wellness

#### **D. Medical Treatment and Preservation of Evidence**

A person who has experienced sexual misconduct is urged to seek appropriate medical evaluation immediately, ideally within 96 hours (4 full days) of the incident. For life-threatening conditions, call 911 (9-911 from a campus phone) or go to the nearest hospital emergency department. In Oxford, McCullough-Hyde Memorial Hospital has a trained Sexual Assault Nurse Examiner (SANE) who can help. Most area hospitals have a Sexual Assault Nurse Examiner (SANE) that will respond.

Any student who has experienced sexual misconduct is encouraged to request collection of medical/legal evidence. Prompt collection of physical evidence is essential should the student later decide to pursue criminal prosecution and/or a civil action. Collection of evidence may involve interaction with police and a police report, but the decision to speak with the police about the alleged violation is the students.

If the sexual assault occurred within 96 hours (4 full days), a free and confidential exam can be administered at most local hospitals. The sooner the sexual assault is reported, the more likely evidence will still be present. "Date rape" drugs, including rohypnol and GHB, may still be present in the student's system and should be tested for if the

victim/survivor believes they may have been drugged. To help preserve evidence that may assist in proving the alleged violation/offense or in obtaining a protection order, place any soiled clothes in a paper (not plastic) bag and avoid the following:

- Bathing or douching
- Washing hands or face
- Urinating
- Drinking any liquids
- Smoking, eating or brushing teeth (including mouthwash and flossing)

If a student is uncertain about whether or not they want to report what has occurred, they can still have evidence collected. In cases of sexual assault or severe injuries, the police will be called to the hospital. The student can decide whether or not to speak with the police at that time to officially report what has happened.

While evidence may be collected anonymously (i.e., without a name attached to it) and/or when there is no report made to police, these cases are handled differently. A discussion about the merit of collecting evidence “anonymously” and/or when the student does not want to report should be discussed with medical personnel and/or an advocate.

Questions about evidence collection can be directed to Women Helping Women at [513-381-5610](tel:513-381-5610) or [877-889-5610](tel:877-889-5610) or the Sexual Assault Nurse Examiner (SANE).

SANE of Butler County provides medico-legal examination and treatment of reported sexual assault cases. SANE of Butler County responds to area hospitals, including:

- Fort Hamilton Hospital, 630 Eaton Ave., Hamilton, OH 45013, [\(513\) 867-2000](tel:513-867-2000)
- McCullough Hyde Memorial Hospital, 110 N. Poplar St., Oxford, OH 45056, [\(513\) 523-2111](tel:513-523-2111)
- Mercy Health– Fairfield Hospital, 3000 Mack Rd., Fairfield OH 45014
- West Chester Hospital, 7700 University Dr., West Chester Township, OH 45069, [\(513\) 298-3000](tel:513-298-3000)
- Atrium Medical Center, 1 Medical Center Dr., Middletown, OH 45005, [\(513\) 424-2111](tel:513-424-2111)

## **Appendix A -Ohio Criminal Offenses**

### **Sex Offenses**

There is currently no definition of “Sexual Assault” in the Ohio Revised Code.

#### **Ohio Revised Code 2907.02 – Rape**

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

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

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

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

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

### **Ohio Revised Code 2907.03 – Sexual Battery**

(A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:

- (1) The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.
- (2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.
- (3) The offender knows that the other person submits because the other person is unaware that the act is being committed.
- (4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.
- (5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian or person in loco parentis of the other person.
- (6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.
- (7) The offender is a teacher, administrator, coach or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 (<http://codes.ohio.gov/orc/3301.07>) of the Revised Code, the other person is enrolled in or attends that school and the offender is not enrolled in and does not attend that school.
- (8) The other person is a minor, the offender is a teacher, administrator, coach or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.
- (9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member or is a person with temporary or occasional disciplinary control over the other person.
- (10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.
- (11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.
- (12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.
- (13) The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.

### **Ohio Revised Code 2907.04 – Unlawful Sexual Conduct w/a Minor**

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

### **Ohio Revised Code 2907.05 – Gross Sexual Imposition**

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

- (1) The offender purposely compels the other person, or one of the other persons, to submit by force or threat of force.
  - (2) For the purpose of preventing resistance, the offender substantially impairs the judgment or control of the other person or of one of the other persons by administering any drug, intoxicant or controlled substance to the other person surreptitiously or by force, threat of force or deception.
  - (3) The offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination, treatment or surgery.
  - (4) The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person.
  - (5) The ability of the other person to resist or consent or the ability of one of the other persons to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age.
- (B) No person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

### **Ohio Revised Code 2907.06 – Sexual Imposition**

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

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

### **Domestic Violence**

#### **Ohio Revised Code 2919.25 – Domestic Violence (Criminal Statute)**

"Domestic violence" means any of the following: (1) Attempting to cause or causing bodily injury to a family or household member, or placing a family or household member by threat of force in fear of imminent physical harm; (2) Attempting to cause or causing bodily injury to a person with whom the actor is or was in a dating relationship or placing a person with whom the actor is or was in a dating relationship by threat of force in fear of imminent physical harm (A) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

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

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

## Dating Violence (Protection Orders)

Dating Violence is included in the definition of Domestic Violence for the purpose of obtaining protection orders and is defined in Ohio Revised Code 3313.33 (A) as follows:

- “Domestic Violence means” any of the following:
  - The occurrence of one or more of the following acts against a family member or household member:
- Attempting to cause or recklessly causing bodily injury;
- Placing another person by threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code;
- Committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code;
- Committing a sexually oriented offense.
- The occurrence of one or more of the acts identified in divisions (A)(1)(a)(i) to(iv) of this section against whom the respondent is or was in a dating relationship. ....

(8) “Dating relationship” means a relationship a relationship between individuals who have or have had a relationship of a romantic or intimate nature. "Dating Relationship” does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

(9) “Person with whom the respondent is or was in a dating relationship” means an adult who, at the time of the conduct in question, is in a dating relationship with the respondent who is also an adult or who, within the twelve months preceding the conduct in question, has had a dating relationship with the respondent who is also an adult.

### Ohio Revised Code 2903.11 – Felonious Assault

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

(1) Cause serious physical harm to another or to another’s unborn;

(2) Cause or attempt to cause physical harm to another or to another’s unborn by means of a deadly weapon or dangerous ordnance.

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

(1) Engage in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;

(2) Engage in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome;

(3) Engage in sexual conduct with a person under eighteen years of age who is not the spouse of the offender.

## Stalking

### Ohio Revised Code 2903.211 – Menacing by Stalking

(A)

(1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person’s belief that the offender will cause physical harm to the other person or the other person’s family or household member or mental distress to the other person or the other person’s family or household member, the

other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

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

(a) Violate division (A)(1) of this section:

(b) Urge or incite another to commit a violation of division (A)(1) of this section.

(3) No person, with a sexual motivation, shall violate division (A)(1) or (2) of this section.

## Consent

Ohio law does not define consent for sexual conduct. In general, non-consensual sexual conduct may constitute a crime. Ohio law includes the following regarding consent\*:

- If the offender substantially impairs the victim's judgment or control by administering any drug, intoxicant or controlled substance to the other person surreptitiously or by force, threat of force or deception.
- The victim's ability to judge the nature of or control their own conduct is substantially impaired.
- The victim is coerced.
- The offender uses force or threat of force.
- The victim is unaware the act is being committed (e.g. unconscious).
- The victim's ability to consent is substantially impaired because of a mental or physical condition or because of advanced age.

*\* This is a non-exhaustive list and is not intended to provide legal advice. Persons should consult with law enforcement and prosecutors for advice.*

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

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

## Translation

- [汉语/漢語 \(title-ix-protocol-sexual-misconduct-policy-procedures-for-students-chinese-translation.html\)](title-ix-protocol-sexual-misconduct-policy-procedures-for-students-chinese-translation.html)
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## Related Form(s)

Formal Complaint ([https://meet.google.com/linkredirect?authuser=0&dest=https%3A%2F%2Fcm.maxient.com%2Freportingform.php%3FMiamiUniv%26layout\\_id%3D6](https://meet.google.com/linkredirect?authuser=0&dest=https%3A%2F%2Fcm.maxient.com%2Freportingform.php%3FMiamiUniv%26layout_id%3D6))

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## Additional Resources and Procedures

### Websites

- [Get Help Now \(https://test.www.miamioh.edu/campus-safety/sexual-assault1/get-help/index.html\)](https://test.www.miamioh.edu/campus-safety/sexual-assault1/get-help/index.html)
  - [Title IX Training Materials \(https://www.miamioh.edu/campus-safety/sexual-assault/title-ix-training/index.html\)](https://www.miamioh.edu/campus-safety/sexual-assault/title-ix-training/index.html)
  - [Resource Guide \(http://miamioh.edu/campus-safety/sexual-assault/resource-guide/index.html\)](http://miamioh.edu/campus-safety/sexual-assault/resource-guide/index.html)
  - [Promises to Victims of Crime \(http://miamioh.edu/police/services/victimservices/index.html\)](http://miamioh.edu/police/services/victimservices/index.html)
  - [Information Sharing Agreement \(http://miamioh.edu/\\_files/documents/police/Mutual\\_Aid\\_OPD\\_MUPD\\_Info\\_Sharing\\_508.pdf\)](http://miamioh.edu/_files/documents/police/Mutual_Aid_OPD_MUPD_Info_Sharing_508.pdf)
  - [Annual Security and Fire Safety Report \(http://miamioh.edu/campus-safety/annual-report/index.html\)](http://miamioh.edu/campus-safety/annual-report/index.html)
  - [Crime Statistics \(http://miamioh.edu/campus-safety/annual-report/crime-stats/index.html\)](http://miamioh.edu/campus-safety/annual-report/crime-stats/index.html)
  - [S. Citizenship and Immigration Services \(http://www.uscis.gov/\)](http://www.uscis.gov/)
  - [Butler County Orders \(http://www.butlercountyclerk.org/index.cfm?page=Legal\\_protectOrder\)](http://www.butlercountyclerk.org/index.cfm?page=Legal_protectOrder)
  - [Financial Aid \(http://miamioh.edu/finaid/\)](http://miamioh.edu/finaid/)
  - [Expectations for Complainants and Accused Persons \(https://miamioh.edu/\\_files/documents/general-counsel/expectation-for-complainants-and-accused-508.pdf\)](https://miamioh.edu/_files/documents/general-counsel/expectation-for-complainants-and-accused-508.pdf)
  - [Code of Student Conduct \(http://miamioh.edu/student-life/oescr/code-of-conduct/index.html\)](http://miamioh.edu/student-life/oescr/code-of-conduct/index.html)
  - [How to File a Discrimination Complaint \(http://www2.ed.gov/about/offices/list/ocr/docs/howto.html\)](http://www2.ed.gov/about/offices/list/ocr/docs/howto.html)
  - [Division of Student Life \(http://miamioh.edu/student-life/student-affairs/index.html\)](http://miamioh.edu/student-life/student-affairs/index.html)
  - [Miami University Police \(http://miamioh.edu/police/\)](http://miamioh.edu/police/)
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### FAQ

Not Applicable.

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## Policy Administration

### Next Review Date

7/1/2019

### Responsible Officer

- Director of the Office of Equity and Equal Opportunity & Title IX Coordinator
- Deputy Title IX Coordinator & Assistant Dean of Students

### Legal Authority

- United States Bill of Rights
- Records Act
- Ohio Revised Code
- The Family Educational Rights and Privacy Act (FERPA)
- Clery Act
- Legal Aid Society of Southwest Ohio

## Compliance Policy

Yes

## Revision History

Amended July 2018; Amended July 2019; Amended November 2019; Amended July 2020; Edited September 2020

## Reference ID

Student Handbook 4.12

## Reviewing Bodies

Administrative

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[➔ Equal Opportunity inclusion/oeeo/index.html](https://miamioh.edu/diversity-inclusion/oeeo/index.html)

[➔ Consumer Information info/index.html](https://miamioh.edu/about-miami/pubs-policies/consumer-info/index.html)

[➔ Land Acknowledgement inclusion/land/index.html](https://miamioh.edu/diversity-inclusion/land/index.html)

[➔ Privacy Statement statement/index.html](https://miamioh.edu/about-miami/pubs-policies/privacy-statement/index.html)

[➔ Title IX Statement statement/index.html](https://www.miamioh.edu/campus-safety/sexual-assault/about/title-ix-statement/index.html)

[➔ Report an Accessibility Issue form/index.html](https://miamioh.edu/it-services/accessmu/access-form/index.html)

[➔ Annual Security and Fire Safety Report report/index.html](https://miamioh.edu/campus-safety/annual-security-and-fire-safety-report/index.html)

[➔ Report a Website Problem ID=HGjA8dfpGKM\\_](https://miamioh.teamdynamix.com/TDClient/2355/UCM/Requests/TicketRequests/NewForm?ID=HGjA8dfpGKM_)

[➔ Jobs and Careers at Miami \(https://](https://miamioh.edu/jobs-and-careers)