

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

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1270

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Policy Manager:

[Audit](#)
[Risk Management](#)
[and Compliance](#)

References:

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Temporary / Emergency Policy

Note: This policy was adopted on June 20, 2023 under the temporary / emergency policymaking provisions of the University's [Policy on Policies](#). It will revert on December 17, 2023. Information about this policy change, and any proposals for further policymaking, can be accessed at the University Policy website. Students and employees may submit comments on those proposals through the Proposed Policy Change Comment Form, which is accessible through the site.

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, including but not limited to admission to and employment at the University.

Nothing in this policy shall be construed to abridge academic freedom and inquiry, principles of free speech, 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 not responsible until such time that the respondent is found responsible and issued sanctions at the conclusion of the formal resolution process. The standard used in determining responsibility is the "preponderance of the evidence" standard.

The term “harassment” may mean different things, depending on the context and conduct at issue. For this reason, different types of harassment are subject to different policies and procedures. This Policy applies to “Title IX Sexual Harassment” in an education program or activity of Wright State University against a person in the United States. “Education program or activity” includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Individuals who believe they may have witnessed or been subjected to discrimination on the basis of sex are encouraged to make a report with the Title IX Coordinator. Any person may report sex discrimination, including sexual harassment, whether or not the person reporting this is the person who has been subject to the conduct that constitutes sex discrimination or sexual harassment. This could be done in person, by mail, by telephone, or by electronic mail using the contact information listed below. Such a report can be made at any time (including during non-business hours) by using the telephone number, email address, or by sending mail to the office address listed below.

Kate Page
Title IX Coordinator
352 University Hall
3640 Colonel Glenn Highway
Dayton, Ohio 45435

Phone Number: 937-775-3512

Email: Kate.page@wright.edu

Questions or concerns about the application of Title IX in this Policy be referred to the Title IX Coordinator or to the Assistant Secretary for the Department of Civil Rights. For further information on Title IX or other non-discrimination laws, contact the [U.S. Department of Education - Office of Civil Rights](#) for the address and phone number of the office that serves your area, or call 1-800-421-3481.

Because reports can require certain responses on the part of the University, reports under this section are not confidential (but will be handled with discretion). To learn about confidential resources, see Appendix A and Appendix C.

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 of the Civil Rights Act, which only applies to behaviors that occur as a part of a University education program and activity within the United States. For purposes of this Policy, the University’s “education programs or activities” includes all of the following: (1) the operations of the University, (2) locations, events, or circumstances over which the University exercises substantial control over both the respondent party and the context in which the Prohibited Behaviors occurred, and (3) buildings that are owned or controlled by student organizations officially recognized by the University.

For reported behavior to qualify as “Title IX Sexual Harassment” under this Policy, in addition to meeting the elements of the specific type of “Title IX Sexual Harassment” defined in this Policy, the reported behavior must meet all of the following threshold requirements, as determined by the Title IX Coordinator and as mandated by the federal regulations:

- The conduct must have occurred against a person in the United States.
- The conduct must have occurred within the University’s education program or activity. For purposes of this provision, this means that the conduct must have occurred either (a) in a location, event, or circumstances over which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurs or (b) in relation to a building owned by a student organization that is officially recognized by the University.

- The complainant must be participating in or attempting to participate in the education program or activity of the University at the time the formal complaint is filed.

1270.3 Jurisdiction

Certain violations of this policy may also constitute crimes. In those circumstances, the University reserves discretion to pursue disciplinary action against the individual while the criminal investigation or charges are pending or wait until those processes are finished. The University reserves the right to pursue disciplinary action against the individual even if criminal charges are ultimately reduced or dismissed, or the individual is acquitted.

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

There are six types of Prohibited Behaviors under Title IX of the Civil rights Act which qualify as “Title IX Sexual Harassment.” Each of these behaviors is defined more specifically below: Sexual Assault, Dating Violence, Domestic Violence, Sex-Based Stalking, Quid Pro Quo Sexual Harassment, Unwelcome Conduct Sexual Harassment, and Retaliation. The definitions used here are mandated by federal regulations.

Title IX Sexual Assault

Sexual Assault is conduct on the basis of sex that is defined as a forcible or non-forcible sex offense, or attempted forcible or non-forcible sex offense, as classified under the Uniform Crime Reporting system of the FBI. This includes six separate categories, each of which is considered a form of sexual assault:

1. *Rape* is defined as the carnal knowledge of a person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. Carnal knowledge is defined as the slightest penetration of the sexual organ of the female (vagina) by the sexual organ of the male (penis).
2. *Sodomy* is defined as oral or anal sexual intercourse with another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
3. *Sexual Assault With An Object* is defined as the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the complainant.
4. *Fondling* is defined as the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
5. *Incest* is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. In Ohio, Revised Code Section 3101.01(A) provides that individuals nearer of kin than second cousins may not marry.
6. *Statutory rape* is defined as sexual intercourse with a person who is under the statutory age of consent. In Ohio, Revised Code section 2907.02(A)(1)(b) provides that no person may have sex with a child under the age of thirteen. Ohio Revised Code Section 2907.04(A) provides that no person over the age of eighteen may have sex with a child under the age of sixteen.

Title IX Dating Violence

Dating Violence is conduct on the basis of sex that consists of violence committed by a person who is or has been in a romantic or intimate relationship with the complainant. The existence of such a romantic or intimate relationship is determined by the length of the relationship, the type of relationship, and the frequency of interactions between the individuals involved in the relationship.

Title IX Domestic Violence

Domestic Violence is conduct on the basis of sex that consists of a felony or misdemeanor crime of violence committed by:

1. A current or former spouse or intimate partner of the victim,
2. A person with whom the victim shares a child in common,
3. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner,
4. A person similarly situated to a spouse of the victim under the domestic/family violence laws of the jurisdiction
5. Any other person against an adult or youth victim who is protected from that person's acts under the domestic/family violence laws of the jurisdiction.

Title IX Sex-Based Stalking

Stalking is conduct on the basis of sex that consists of engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

For purposes of the definition of Stalking under this Policy:

- A "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.
- A "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.
- "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking that is not based on sex, but otherwise meets the definition above, is addressed in other University policies, including the Student Handbook.

Title IX Quid Pro Quo Sexual Harassment

Quid Pro Quo Sexual Harassment is conduct on the basis of sex that occurs when a University employee, vendor, or volunteer 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 the other person involved. Examples of aid or benefits include actual benefits and/or promises of positive ratings, grades, or other forms of evaluation.

Title IX Unwelcome Conduct Sexual Harassment

Unwelcome Conduct Sexual Harassment is conduct on the basis of sex that is unwelcome and determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.

Title IX Retaliation

Neither the University nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report of formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

An individual who brings a complaint under this Policy in good faith, even if it may be erroneous, will not be subject to discipline under this section. However, the use of this Policy for false, malicious, or frivolous purposes is strictly

prohibited. The University's decision to charge an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute retaliation, provided that the outcome of a particular case, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Reports of retaliation will be addressed in accordance with the University's policies regarding retaliation.

1270.5 Sexual Misconduct

The following behaviors are prohibited regardless of the behaviors described falling within or outside of the scope of Title IX. Behaviors that meet the definitions for Title IX misconduct (sexual assault, dating violence, domestic violence, stalking, quid pro quo sexual harassment, and unwelcome conduct sexual harassment), but fall outside the scope of Title IX, can result in disciplinary action under the policies, rules, procedures and professional standards for faculty/staff and students. This means that sexual assault, dating violence, domestic violence, stalking, quid pro quo sexual harassment, and unwelcome conduct sexual harassment reports that do not meet the threshold Title IX criteria, may still be adjudicated under this section of the policy through the appropriate responding office (Student Conduct, Human Resources, and the Provost Office.)

In all cases where the reported behavior meets the definitions and threshold requirements of Policy 1270.4, the case will be managed under 1270.4 guidelines.

Policy for Consensual Romantic and/or Sexual Relationships Romantic and/or sexual relationships (those between students and employees, and those between certain employees) are prohibited, as outlined in Appendix F. Any such relationship that develops must be reported in writing to the employee's supervisor by the end of the next business day. The University's Chief Human Resources Officer (or designee) shall process written requests for exceptions from this policy, in consultation with the Provost (for academic employees), COO (for administrative/staff employees), and Dean of Students (for students).

1. **Between Students and Employees:** A sexual or romantic relationship between an employee (faculty or staff) and a student is prohibited regardless of department, school, or college affiliation.
1. **Between Certain Employees:** A sexual or romantic relationship between certain employees is prohibited in certain circumstances where the relationship has a potential to disrupt or impair University operations. See Appendix F for details.

Dismissal

If the conduct reported in a Formal Complaint does not constitute Title IX Sexual Harassment (as defined in this Policy), did not occur in a University education program or activity, or did not occur against a person in the United States, the University must dismiss the Formal Complaint with regard to that particular conduct for the purposes of Title IX Sexual Harassment and the procedure required for reports that fall within the scope of Section 1270.4. The fact that a Formal Complaint has been dismissed under this section does not necessarily mean that the matter is concluded. Instead, the reported conduct may be referred to the appropriate responding office (Student Conduct, Human Resources, the Provost's Office, or the Compliance Department) and adjudicated by that office.

The Title IX Coordinator is responsible for determining whether a Formal Complaint should be dismissed from the Title IX Sexual Harassment grievance process. The University may also dismiss a Formal Complaint or allegations therein if:

- The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the Formal Complaint or any allegations therein;
- The respondent is no longer enrolled in (for students) or employed by (for employees) the University; or

- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Dismissal under this section does not preclude the University from proceeding under another University conduct process or re-initiating the Title IX process if circumstances change.

The University will send written notice of the dismissal and the reasons for dismissal simultaneously to all parties. Parties may appeal the University's decision to dismiss a Formal Complaint, or any allegations therein, within 10 business days from the date of the written notice of dismissal, using the process outlined here.

Upon receipt of a dismissal appeal, the University will notify the other party in writing that an appeal has been filed. The non-appealing party will then have 5 business days from the date of the written notice of the appeal to submit a written statement in response to the appeal. The Appeals Officer for the appeal of a dismissal decision will not be the same person as the Title IX Coordinator, investigator, or decision-maker(s) for the hearing (if one has already been assigned). The Appeals Officer will issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties within 5 days of the date the non-appealing party's written response to the appeal is received. All grounds for appeal are available to all parties. The grounds for an appeal include:

- Procedural irregularity that affects the outcome of the dismissal decision;
- New evidence that was not reasonably available at the time the dismissal decision was made, that could affect the outcome of the matter, and;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

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