

## **Interim Title IX Policy**

The university complies with Title IX of the Educational Amendments of 1972, which prohibits any person in the United States from being discriminated against on the basis of sex in access to or participation in any educational program or activity receiving Federal financial assistance. The university maintains [Title IX Grievance Procedures](#) for equitably addressing reports of sexual harassment, including sexual violence, that fall within the jurisdiction of Title IX. The university maintains other the [OIE Procedures for Addressing Reports of Discrimination, Harassment, Sexual Violence and Retaliation](#) for addressing sex discrimination, that does not constitute sexual harassment prohibited by Title IX, and retaliation for exercising any rights secured by Title IX or this Title IX Policy.

# Grievance Procedures for Addressing Formal Complaints of Sexual Harassment Under the May 19, 2020 Title IX Regulations

## I. INTRODUCTION

### A. The purpose of the Title IX Grievance Procedure for Addressing Formal Complaints of Sexual Harassment

Title IX of the Educational Amendments of 1972 (Title IX) prohibits any person in the United States from being discriminated against on the basis of sex in access to and participation in any educational program or activity receiving Federal financial assistance. The U.S. Department of Education, which enforces Title IX, interprets its prohibition against sex discrimination to include educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

-based violence); and

States the process by which the University must respond to reports of misconduct falling within that definition of sexual harassment.

See 85 Fed. Reg. 30026 (May 19, 2020) (Final Rule). The full text of the Final Rule and its Preamble are available here: <http://bit.ly/TitleIXReg>. Based on the Final Rule, Cleveland State University implement this Title IX Grievance Procedure effective August 14, 2020.

### B. The Impact of the Title IX Grievance Procedure on Other Campus Policies

The Final Rule identifies the geographic scope of Title IX and the types of sexual harassment that fall under this Title IX Grievance Procedure for Addressing Formal Complaints of Sexual Harassment . This Title IX Grievance Procedure applies to reports of sexual harassment, including sexual misconduct, which fall within Title IX and are prohibited by the University.

The Office for Institutional Equity retains the authority to investigate misconduct constituting discrimination, harassment, sexual violence and retaliation pursuant to the *Policy Against Discrimination, Harassment, Sexual Violence and Retaliation* and related *Procedures for Investigating Complaints of Discrimination, Harassment, Sexual Violence and Retaliation* (Procedures) as to discrimination, harassment, sexual violence and retaliation falling outside the jurisdiction of this Title IX Grievance Procedure, or which are identified by the Title IX Policy or the Title IX Grievance Procedure as subject to investigation and adjudication pursuant to those Procedures.

This Title IX Grievance Procedure is not transferable to any other policy of the University for any violation of any code of conduct, employment policies, the *Policy Against Discrimination, Harassment, Sexual Violence and Retaliation*, or any civil rights violation. The application of this Title IX Grievance Procedure does not set precedent for other policies or processes in the University.

## II. THE TITLE IX GRIVANCE PROCEDURE FOR ADDRESSING FORMAL COMPLAINTS OF SEXUAL HARASSMENT

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### A. General Rules of Application

#### 1. **Effective Date**

This Title IX Grievance Procedure is effective on August 14, 2020, and applies to Formal Complaints of sexual harassment brought on or after August 14, 2020.

#### 2. **Revocation by Operation of Law**

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified, this Procedure, or its withdrawn or modified elements, will be deemed revoked as of the publication date of the opinion or order and for all reports received after that date, as well as any elements of the Procedure that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Grievance Procedure be revoked in this manner, conduct previously covered under the Title IX Grievance Procedure will be investigated and adjudicated under the *Policy Against Discrimination, Harassment, Sexual Violence and Retaliation*.



former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Ohio.

- f. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Conduct that does not meet one or more of these criteria may still be prohibited under the *Policy Against Discrimination, Harassment, Sexual Violence and Retaliation*.

## 2. “Consent” or “Affirmative Consent”

C means:

- a. Informed (knowing), voluntary (freely given) and active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity.
- b. Consent to one form of sexual activity does not, by itself, constitute consent to another form of sexual activity.

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means:

- a. Any on-campus premises;
- b. Any off-campus premises over which the University has substantial control. This includes buildings or property owned or controlled by a recognized student organization; or
- c. Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the University

- ii. Any P  
given voluntary, written consent.

Party has

## **7. Respondent**

Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute Covered Sexual Harassment. A Respondent may also be referred to as a Party.

## **8. Retaliation**

- a. Retaliation is any overt or covert act of reprisal, interference, restraint, penalty, discrimination, intimidation or harassment, against any person or group for exercising any rights secured by Title IX or pursuant to the Title IX Policy.
- b. Prohibited retaliation includes retaliatory harassment and retaliation through a third person or persons.
- c. Retaliation which violates the Title IX Policy includes charges filed against an individual for code of conduct violations that: (1) do not involve sex discrimination or sexual harassment, but (2) arise from the same facts or circumstances as a Formal Complaint of Covered Sexual Harassment. For this reason, and to encourage the reporting of possible violations the Title IX Policy and the participation in proceedings pursuant to the Title IX Grievance Procedure, the University will not pursue sanctions against students for code of conduct violations,

- d. The University may also be required to permit a student to inspect and review records related to a complaint or investigation to the extent that they constitute





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Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

#### **D. Non-Investigatory Measures Available Under the Title IX Grievance Policy**

##### **1. Supportive Measures for Complainants**

Complainants who report allegations that could constitute Covered Sexual Harassment under this Title IX Grievance Procedure have the right to supportive measures from the University, regardless of whether they file a Formal Complaint or participate in this Title IX Grievance Procedure. Supportive measures are non-disciplinary and non-punitive.

As appropriate, supportive measures may include, but are not limited to:

- a. Counseling
- b. Academic support, including extensions of deadlines or other course-related adjustments
- c. Modifications of work or class schedules
- d. Campus escort services
- e. Safety planning
- f. No contact directives
- g. Changes in work or residential locations
- h. Excused absences
- i. Leaves of absence
- j. negative impact to academic standing
- k. Increased security and monitoring of certain areas of the campus

##### **2. Supportive Measures for Respondents and others**

Respondents and others, including witnesses or roommates, who are impacted by allegations that could constitute Covered Sexual Harassment under this Title IX Grievance Procedure have





- d. The alleged conduct, if true, would constitute Covered Sexual Harassment as defined above.

If all of the elements are met, the University will investigate the allegations according to this Title IX Grievance Procedure.

### **6. Allegations Potentially Falling Under Two Policies**

If the reported conduct, if true, includes conduct that would constitute Covered Sexual Harassment and conduct that would not constitute Covered Sexual Harassment, the Title IX Grievance Procedure will be applied to investigate and adjudicate the allegations that constitute Covered Sexual Harassment. The Title IX Coordinator may elect to address allegations of conduct that do not constitute Covered Sexual Harassment under the Policy Against Discrimination, Harassment, Sexual Violence and Retaliation.

### **7. Dismissal of some or all of the Formal Complaint**

- a. **Mandatory Dismissal.** If,

Formal Complaint, pursuant to this Title IX Grievance Procedure, the Title IX Coordinator, or designee, may utilize *the Policy Against Discrimination, Harassment, Sexual Violence and Retaliation* to determine if a policy violation has occurred. The Title IX Coordinator or designee will promptly send written notice of the referral of the matter to the *Policy Against Discrimination, Harassment, Sexual Violence and Retaliation* to the Parties.

## **8. Notice of Allegations**

- a. Following the filing of a Formal Complaint, the Title IX Coordinator will promptly provide a Notice of Allegations to Parties named in the Formal Complaint. The Notice of Allegations will be sent to the P institutional email accounts if they are students or employees, and by other reasonable means if they are neither.
- b. The Investigator will provide the Parties with sufficient time to review the Notice of Allegations and prepare a response to it before any initial interview pursuant to the investigation.
- c. If the Title IX Coordinator determines that the Formal Complaint must be dismissed in whole or in part on the mandatory grounds identified above, the Title IX Coordinator will issue s7( )-1(s)-8(7( )-7(t)5(i)4(c)-8(e)-7( )-121(o)-7(395( )-121(A)-5(395(s)-8(c)-

violation of that Policy has occurred. A false allegation occurs when an

- ii. Evidence available for inspection and review by the parties consists of all evidence directly related to the allegations raised in the Formal Complaint. It will include any:
    - a) Evidence that is relevant, even if that evidence does not end up being relied upon by the University in making a determination regarding responsibility; and
    - b) Evidence that may tend to prove or disprove the allegations in the Formal Complaint.
  - iii. The Investigator will make the evidence available to the Parties and each reasonable format determined in the discretion of the Title IX Coordinator or designee.
- b. The Parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the Investigator. The investigator will consider the Parties' written responses before completing the Investigation Report.
- and Review of Evidence to the other Party or Parties and their Advisors.
- c. Evidence obtained in the investigation that is determined in the reasoned judgment of the Investigator not to be directly related to the allegations in the Formal Complaint will not be disclosed to the Party or Parties. Evidence obtained in the



- a. The University will not issue a disciplinary sanction arising from a Formal Complaint without holding a Live Hearing, unless the matter is otherwise resolved through an informal resolution, which includes the sanction(s).
- b. The Live Hearing may be conducted with the Parties and witnesses physically present in the same geographic location. Alternatively, at the discretion of the Title IX Coordinator, or by request of any Party, the Parties, witnesses and other participants may appear at the Live Hearing virtually through an appropriate remote video conference that permits participants simultaneously to see and hear each other.
- c. Live Hearings will be audio recorded, and the recording will be made available to the Parties within a reasonable time following the completion of the Live Hearing.
- d. The Hearing Officer may delay or adjourn a hearing based on technological



- a. The Decision-Maker will begin the Live Hearing by establishing rules and expectations for hearing participants.
- b. The Parties will each be given the opportunity to make an opening statement.
- c. The Decision-Maker will question the Parties and Witnesses about the evidence set out in the Investigation Report.
- d. In an order determined the Decision-Maker, the Parties, through their Advisors, may cross-examine any other Party or Witness. During any cross-examination, the Decision-Maker may interject with follow up questions.

## **7. Live Cross-Examination Procedure**

- a. Each Party's Advisor will conduct live cross-examination of the other Party or Parties and witnesses. The Advisor may ask relevant questions and follow-up questions, including those challenging credibility.
- b. Before the Party or witness being questioned responds to any cross-examination question, the Decision-Maker will determine if the question is relevant. Cross-examination questions that are duplicative of questions previously asked and answered at the Live Hearing, may be deemed irrelevant.
- c. Each Party's Advisor may cross-examine a Party or Witness. The Decision-Maker is responsible for making sure the record of the Live



iii. A statement of, and rationale for, whether re

- ii. Suspension: separation of the Respondent from the University for a period of one, two, three, four, five, six, seven or eight semesters, and
- iii. Disciplinary probation: formal conduct violated the Policies and that continued enrollment of the  
a going forward basis;
- iv. Reprimand: a written statement placed in the disciplinary file of the Respondent and maintained in Student Affairs or documentation of a verbal reprimand issued to the respondent;
- v. Restitution: A requirement that the Respondent reimburse the Complainant for damages;
- vi. Restriction: temporary or permanent loss of:
  - 1. Use of any or all University facilities or services;
  - 2. The ability to participate in University extra-curricular activities, athletics or student organizations; and
  - 3. The ability to serve in a student leadership or advisory role.
- vii. Community Service: requiring the Respondent to render a designated amount of specified service to the University or community;
- viii. Education: requiring the Respondent to attend a specified training or

1. Each Party may appeal (1) the dismissal of a Formal Complaint or part of a Formal Complaint; and/or (2) a Determination of Responsibility.
2. An appeal must be submitted in writing to the Title IX Coordinator within five (5)

Coordinator or designee may invite the Parties to voluntarily participate in this Informal Resolution Process.

2. Informal resolution is a voluntary alternative to the investigation and Live Hearing described in the Title IX Grievance Procedure.
3. If a Party or the Title IX Coordinator or designee invites the Parties to participate in an informal resolution process, the Title IX Coordinator or designee will provide the Parties with a Notice of Informal Resolution which contains:
  - a. The allegations of Covered Sexual Harassment in the Formal Complaint;
  - b. The requirements of the Informal Resolution Process, including that once the Parties agree in writing by signature or other indication of the intent to resolve a Formal Complaint through an informal resolution agreement, the Party or Parties will be precluded from seeking resolution of the Formal Complaint through the