

~~Interim~~ Sexual Misconduct Protocol for Students

Sep 13, 2021

Scope: Who is Covered by this Policy?

Undergraduate and Graduate Students

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.

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

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

I. Definitions

A. Complainant

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

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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

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.

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

Reports Involving Students on Oxford or Luxembourg Campuses

Ms. ~~Gabby Dralle~~Allison Kumar, Deputy TIX Coordinator and Assistant Dean of Students;

Phone: (513) 529-1870;

Email: TitleIX@miamioh.edu ;

Online: <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

~~Ms. Kenya Ash~~Dr. Bennyce Hamilton, Title IX Coordinator for Regional Students and Regional Director of the Office of Equity Diversity and Equal Opportunity Multicultural Services; 513-785-3283;

Phone: (513) ~~529-7157~~785-3283;

~~Email: ashkd@miamioh.edu~~

Email: hamiltbe@miamioh.edu

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

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

Mail: 117 Rentschler Hall, Miami University Hamilton, Hamilton, Ohio 45011; 144 Johnston Hall, Miami University Middletown, Ohio 45042;

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 tance, visa

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, Deputy TIX Coordinator at 104 Warfield, Miami University, Oxford, Ohio 45056, titleix@miamioh.edu or at 513-529-1870.

For supportive measures involving Regional Campus students, and VOA students, contact the Ms. Kenya Ash, Title IX Coordinator and Director of the OEEEO, Phone: (513) 529-7157; Email: ashkd@miamioh.edu , Online: <https://www.miamioh.edu/diversity-inclusion/oeeo/index.html> or via Mail: 219 E Spring Street, Hanna House, Oxford, OH 45056

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 and on campus during office hours at 215 Warfield Hall or 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. 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](#).

For off-campus legal assistance, contact Legal Aid Society of Southwest Ohio, 513-241-9400 or toll-free 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 &

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 (non-emergency) to file a police report. Miami University Police officers will respond quickly, with sensitivity and compassion (see [Promises to Victims of Crime](#)). Regional Campus students should report to local law enforcement (Hamilton Campus- Hamilton Police at 513-868-5811, Middletown Campus- Middletown Police 513-425-7700, VOA- West Chester Police, 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 \(PDF\)](#).

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.

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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. C

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 protectio

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and sanction. The goal of Investigative Resolution is to eliminate the Prohibited Conduct, prevent its recurrence, remedy its effects while maintaining the safety of the campus community and if there is a finding of responsibility, sanction the Respondent.

B. Adaptable Resolution

Adaptable Resolution (“AR”) is coordinated through the Office of the Dean of Students (“DOS”) and includes a spectrum of facilitated, structured, and adaptable processes. AR is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects while maintaining the safety of the campus community. This pathway offers the Respondent the opportunity to acknowledge harm and seek to repair the harm (to the extent possible) experienced by the Complainant and/or the University Community. AR does not include an investigation, hearing, or result in a find

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

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XIV. 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

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;

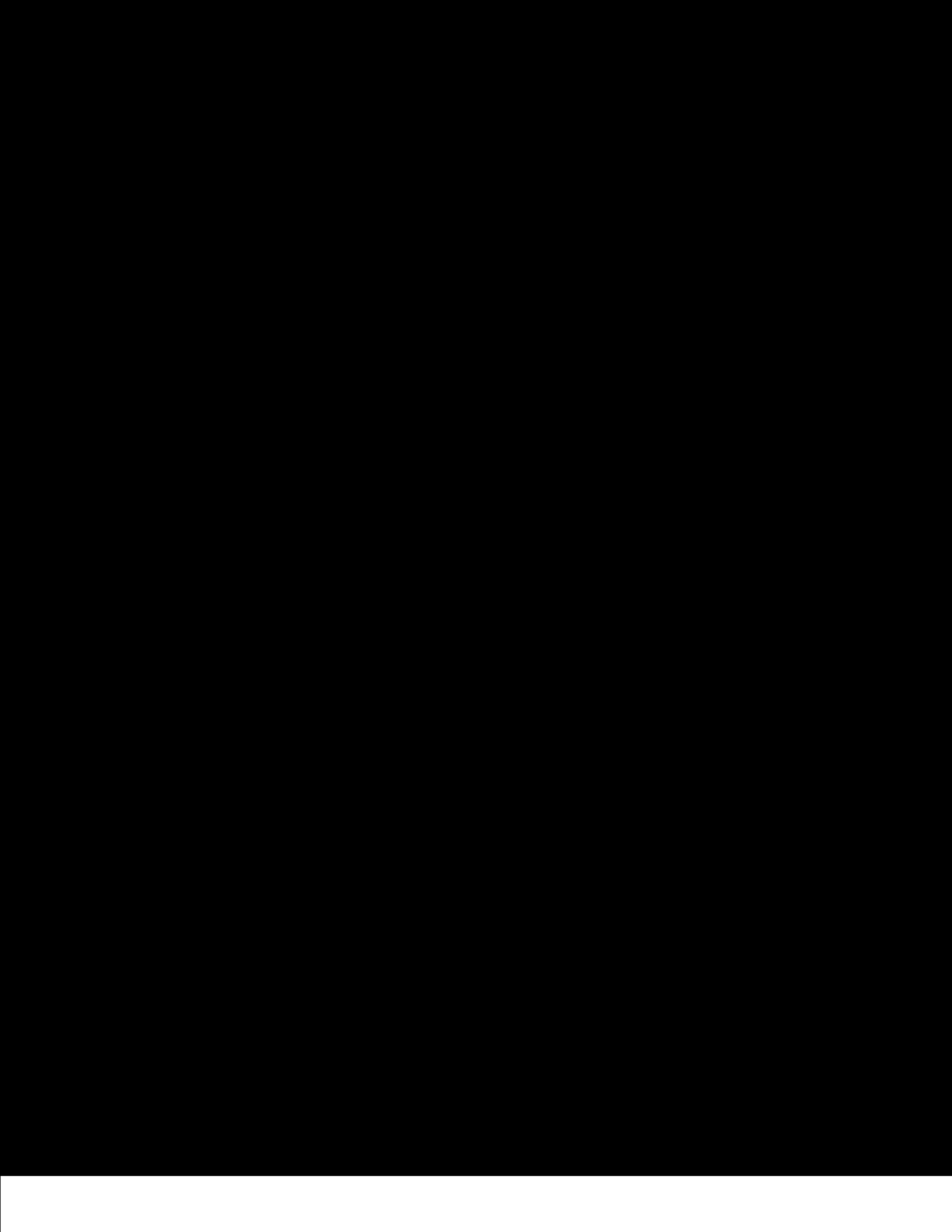
- A conclusion applying the appropriate definition of the policies determined to have been violated;

- 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



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.

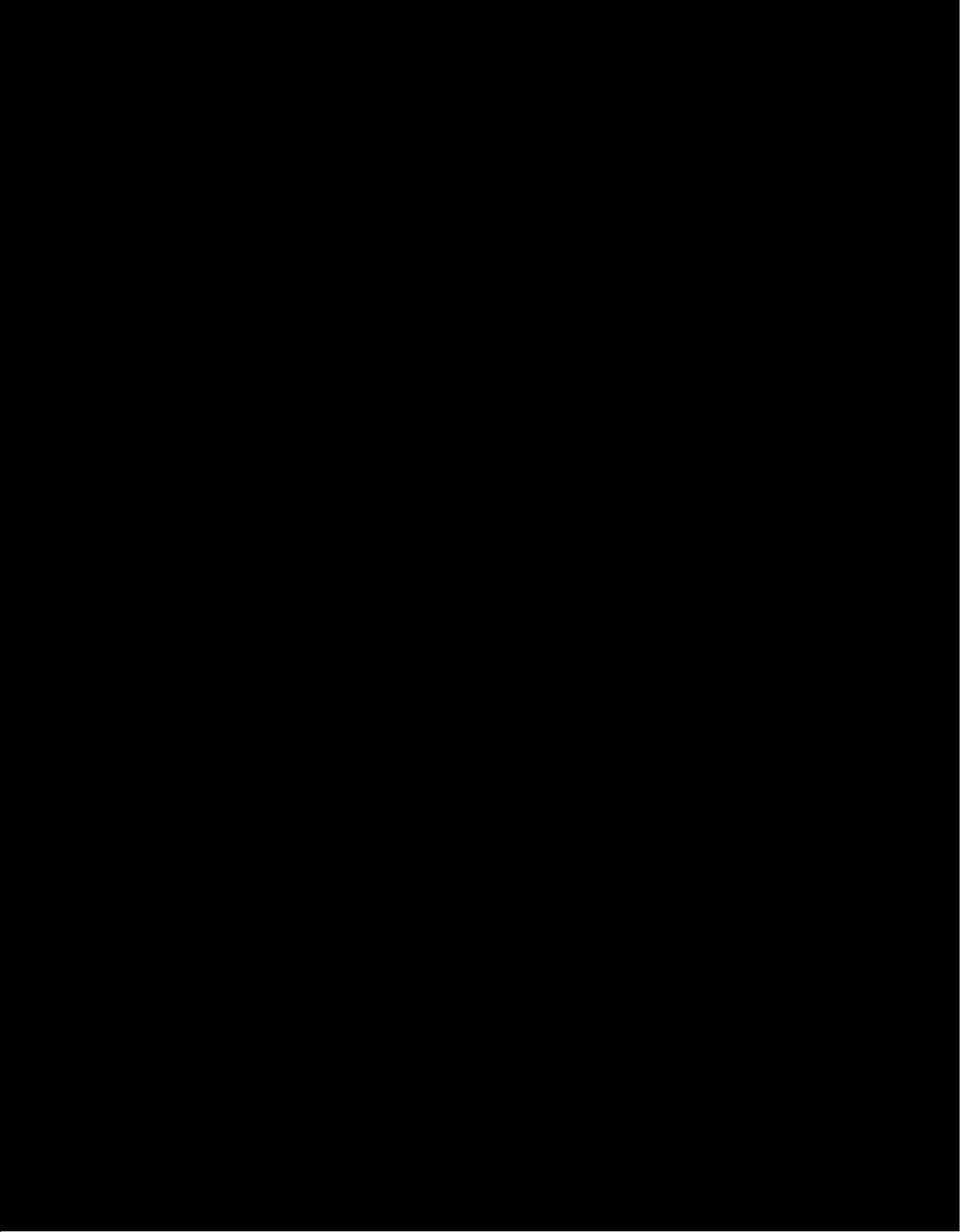
XV. Adaptable Resolution

A. Overview

The University recognizes that it is important to take into account the needs of Students, some of whom may prefer not to utilize an investigative resolution process. Adaptable Resolution ("AR") is a voluntary, remedies-based, structured process between or among affected parties that balances support and accountability without formal disciplinary action against a Respondent, while focusing on the expressed needs of the harmed party(ies). AR is generally designed to allow a Respondent to acknowledge harm and take steps to repair harm (to the extent possible) experienced by the Complainant and/or the Un

Both parties must execute a FERPA release permitting the institution to share relevant information with the other party(ies)

If the parties cannot reach a resolution , the matter will be referred to the Title IX



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XVI. 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.

XVII. 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 lo o M M

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](#).

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.

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

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 f

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McCullough Hyde Memorial Hospital, 110 N. Poplar St., Oxford, OH 45056, (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

Atrium Medical Center, 1 Medical Center Dr., Middletown, OH 45005, (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

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

(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

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Ohio law does not define consent for sexual conduct. In general, non-consensual sexual conduct may constitute a crime.

The University can act to remove a student entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual, arising from allegations of sexual harassment or other sexual misconduct, justifies emergency removal. The analysis will be conducted by the Dean of Students or designee. In all cases in which an emergency removal is justified, the Respondent will be given notice and the opportunity to challenge the decision immediately following the removal or prior to removal being imposed, if reasonably possible. Unless circumstances warrant an alternate means of delivery, the notice will be issued in writing and will be emailed to the respondent's Miami University email account.

Respondent may challenge the removal by requesting a meeting to give reason(s) for why the removal should be modified or not implemented. This meeting will be conducted by the Dean of Students or designee. This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within three (3) business days of notice, objections to the emergency removal will be deemed waived.

A Respondent may be accompanied by an advisor of their choice at the review meeting. The student will be given access to a written summary of the basis for the emergency removal after notice and prior to the review meeting to allow for adequate preparation.

The Dean of Students or designee has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. The Dean of Students or designee will prepare a written determination from the review meeting within two (2) business days of the meeting taking place. The Dean of Students or designee will implement the least restrictive emergency removal actions possible in light of the circumstances and safety concerns.

An emergency removal is not equivalent to a determination of responsibility or a sanction. The University may remove a respondent on an emergency basis whether the formal grievance process is underway or not. If, following an emergency removal, a formal sexual misconduct complaint is not filed by the Complainant or the Title IX Coordinator, the emergency removal will be lifted and the party notified promptly.

Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

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Related Form(s)

[Formal Complaint](#)

Additional Resources and Procedures

Websites

[Get Help Now](#)

[Title IX Training Materials](#)

[Resource Guide](#)

[Promises to Victims of Crime](#)

[Information Sharing Agreement](#)

[Annual Security and Fire Safety Report](#)

[Crime Statistics](#)

[S. Citizenship and Immigration Services](#)

[Butler County Orders](#)

[Financial Aid](#)

[Expectations for Complainants and Accused Persons](#)

[Code of Student Conduct](#)

[How to File a Discrimination Complaint](#)

[Division of Student Life](#)

[Miami University Police](#)

FAQ

Not Applicable.

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; Amended August 2021; Amended July 2022

Reference ID

Student Handbook 4.12

Reviewing Bodies

Administrative

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