

GENDER-BASED MISCONDUCT AND TITLE IX POLICY & PROTOCOL

The University of Akron's (the University) Title IX Team is committed to promote a safe and non-discriminatory environment as we discharge our responsibility to ensure compliance with Title IX, the federal law prohibiting discrimination based on sex and gender for all students and employees. Our responsibility involves leading the institution in taking appropriate steps to remedy the discrimination and harassment, prevent its recurrence and demonstrate intolerance of anything that would compromise that responsibility. We affirm our duty to students, faculty, and staff to protect all parties from discriminatory conduct. We honor the framework of Inclusive Excellence to execute this responsibility equitably and strive to guarantee equal access to the educational programs and activities and employment for all who learn and work here.

Definitions

Advisor

An advisor is someone who provides advice and guidance following a report of conduct that could constitute sexual harassment or conduct prohibited by this protocol and/or during the grievance process. An advisor may, but is not required to be, an attorney. (See information about the Advisor's role below under Grievance Process.)

Coercion

Coercion is conduct that would place a reasonable person in fear and that is used to compel that person to engage in a sexual act.

Examples of coercive conduct include intimidation, unreasonable pressure, and express or implied threats of immediate or future harm to the person or others. Harm may be a physical, emotional, reputational, financial, or other injury to that

Prohibited Conduct

This protocol addresses conduct prohibited by Title IX of the Education Amendments Act of 1972 and conduct prohibited by The University's rules or policies. Where there are differences in prohibited conduct, Section A under the definition addresses conduct prohibited by Title IX and Section B addresses conduct prohibited by The University's rules or policies.

Limited Amnesty

While the University does not condone underage drinking, drug use, or violation of other University rules/policies, it considers reporting gender-based misconduct to be of paramount importance. To encourage such reporting and adjudication of such conduct, The University will extend limited amnesty to complainants, respondents, and witnesses. The University will generally not seek to hold the student responsible for a non-violent violation of the law or the Code of Student Conduct, such as personal use of alcohol or drugs, during the time period immediately surrounding the reported behaviors prohibited by the gender-based misconduct protocol.

Jurisdiction

Stalking as defined by the Violence Against Women Act
Sexual assault, domestic violence, dating violence and stalking are further defined below.

Sexual Assault

As defined by the Federal Bureau of Investigation Uniform Crime Reporting System, sexual assault is defined as forcible and non-forcible sex offenses and includes:

Rape

The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/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).

Sodomy

Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.

Sexual Assault with an Object

Use of an object or instrument to unlawfully penetrate, however slight, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An object or instrument is anything used by the offender other than the offender's genitalia, e.g., a finger, bottle, handgu314 fcmestk.or

Stalking

Engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person with similar characteristics, under similar circumstances, to fear for the person's safety or the safety of others or suffer substantial emotional distress.

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.

conduct outlined in this protocol should consider retaining all communications, including email, voicemail, text messages and social media communications. In instances where criminal conduct occurred, they may also consider taking steps to preserve physical or medical evidence, even in instances when not considering legal action in order to preserve the option for consideration in the future.

In Person

Reports can be made in person to: **Mike Strong, Associate VP & Dean of Students, Interim Title IX Coordinator, Student Union, Room 152, 330-972-6078, mstrong@uakron.edu**

Concern	Deputy Title IX Contact
Reports involving students on the main campus	Deputy Title IX Coordinator for Students Dr. Bryan Robinson, Assistant Dean of Students Student Union, Room 152H (330) 972-6048 brobinson@uakron.edu
Reports involving the regional campuses, including the Wayne Campus	Deputy Title IX Coordinator for Regional Campuses Gordon Holly, Assistant Dean of Student Success Wayne Campus, Boyer HPE Building, Room E242 (330) 972-8740 gholly@uakron.edu
Reports involving student athletes	Deputy Title IX Coordinators for Athletics Jacklin Wallgren, Senior Associate Athletic Director for Institutional Services Infocision Stadium 269 (330) 972-5512 jwallgren@uakron.edu
Reports involving the Law School	Deputy Title IX Coordinator for the Law School Andrew Costigan, Assistant Dean of Student Affairs

counseling, mental health, victim advocacy, legal assistance, visa and immigration assistance, financial assistance, and how to request supportive measures will be provided.

Even if a complainant does not specifically

(the Rape Crisis Center of Wayne County), and University of Akron Police are prepared to assist with such requests. Either temporary protection orders or civil protection orders may be issued by a judge under specific circumstances.

When a court order is issued, the protected party should provide a copy of the court

Grievance Process

Formal complaints filed with the University allege a violation of this Protocol. All formal complaints of gender-based misconduct will be investigated by the University in a prompt and equitable manner. Formal complaints against students will be investigated by the Office of Student Conduct & Community Standards. Formal complaints against employees, volunteers, or third parties will be investigated by the Office of Equal Employment Opportunity & Affirmative Action. Complainants can also request investigations of potentially criminal behavior by The University Police Department or appropriate local law enforcement agency.

The grievance process provides both parties the right and ability to participate in the investigation, collection of evidence, and a hearing. The University is responsible for gathering relevant evidence during the investigation. Respondents and complainants are presumed not responsible for violations of University protocol until a determination is made at the conclusion of the grievance process. Determinations of responsibility are made using a preponderance of the evidence standard and are determined at the conclusion of the hearing.

Who Can File a Formal Complaint?

While anyone may file a report alleging that conduct occurred which is prohibited by this protocol, only individuals who are participating or seeking to participate in an education program or activity of the University may file a formal complaint requesting an investigation into conduct prohibited by Title IX of the Education Amendments Act of 1972.

Any individual who feels that they have been subjected to conduct prohibited by the University may file a formal complaint requesting an investigation into that conduct. Regardless of any request, the University will seek to protect the privacy of those involved in the complaint and investigation, to the extent permitted by law.

A formal complaint may also be filed by the Title IX Coordinator or a deputy Title IX coordinator in consultation with the Title IX Coordinator. Whether to file a complaint without the request of a complainant will be evaluated based on the context of the University's commitment to provide a safe and non-discriminatory campus environment. Factors considered include, but are not limited to:

- Seriousness of the allegation including use of weapons, illegal drugs or intoxicants, illegal activities, or multiple respondents;
- The existence of prior complaints or reports involving the respondent;
- Availability of other information verifying the veracity of the report; and
- Safety of the reporter, complainant, respondent and of the campus community.

Statement of Shared Interests and Rights

Members of the University community have legal rights and due process protections which the University upholds. All members of the University community including complainants and respondents shall be provided:

- Access and support in seeking aid from a University community member, Title IX coordinator, or deputy Title IX coordinators
- Access to counseling and/or support services through either the University Counseling and Testing Center (students) or the Employee Assistance Program (faculty and staff)
- The right to choose not to speak or choose not to respond to the University following a report of prohibited conduct. Choosing not to respond does not absolve a party of responsibility for their actions.
- The presumption that neither the complainant nor the respondent are responsible for violating University policy until a determination is made at the conclusion of the grievance process.
- The right to not disclose or use questions or evidence that discloses information protected under a legally recognized privilege.

Notice of Allegations

All complaints and respondents have the right to a timely notice of a formal complaint and allegations. Written notice of a formal complaint will be issued to the complainant and respondent by the investigating office upon receipt of the complaint. This notice will contain a description of the grievance process and details regarding the allegations, including the identities of the parties, and the date and location of the incident. This notice will be simultaneously updated if additional allegations arise during the investigation that are not included in the original notice. The written notice will provide that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process. The written notice will provide that the parties may have an advisor of their choice, as provided below, who may be, but is not required to be, an attorney and may expect and review evidence pursuant to 34 C.F.R. 106.45(b)(5)(v). The written notice to the parties will provide that the code of student conduct prohibits knowingly furnishing false or misleading information.

Timeframe for Investigations

All efforts will be made to issue the investigator's report within 75-business days after notice of charges has been sent to the respondent. The hearing will be completed within 30- business days of the report being issued. The hearing officer's report will be issued within ten (10) business days of the hearing. The parties will have ten (10) business days to file a written appeal following the issuance of the hearing officer's report. These dates may be extended for good cause. Both the complainant and respondent may

Appeals

completed the evidence-gathering process, or sooner if the University determines that the evidence-gathering process will be lengthy or delayed. The University will not wait until the ultimate outcome of the criminal investigation to begin or complete its own investigation of a formal complaint. The situation of concurrent investigations can influence the timeframe for investigations and the hearing process and may present a delay.

If a Complainant Stops Speaking with Police

The University Police Department will not close an investigation due to non-cooperation of a complainant without first providing time to respond that is adequate and reasonable under the circumstance. Nor will University police personnel prohibit the complainant or others from discussing a formal complaint. Support services and resources are available regardless of criminal charges, participation in a University investigation, or University disciplinary action.

Informal Resolutions

The University welcomes informal resolution of formal complaints when the parties wish to resolve a formal complaint cooperatively. Both parties must agree to participate in the Informal Resolution process. Informal resolutions will be reached when the parties agree to the resolution and to commit to abide by terms agreed upon through the resolution process. In addition, the University must accept the agreement before it can go into effect. The informal process does not result in any finding or determination that the respondent violated this protocol but does permit the parties to work cooperatively with a neutral third party to determine how to address and resolve the underlying concerns between the parties.

Eligible Complaints

Only formal complaints where both parties are students, both parties are employees, or the respondent is a student are eligible for an informal resolution. Formal complaints filed by students against employees must follow the investigation and hearing process.

The informal process cannot be used if one party is not a student or employee of The University, where any party is under 18 years of age, where the formal complaint was filed by the Title IX Coordinator, or where the respondent has been emergency removed from the University community.

Procedures

The informal resolution process may be requested at any point after a formal complaint has been filed and until a decision is made at the end of the grievance process. Both parties must consent in writing to participate in the informal process. Agreement to the informal process is voluntary and unique to that party. In cases of multiple complainants and/or multiple respondents, all individuals must agree to participate in the informal process before that process can be used. A party can withdraw their consent to the informal process at any time before a final agreement is reached by the parties. If all parties do not agree to use the informal process or if consent is withdrawn, then an investigation and hearing will occur.

The informal resolution process will be conducted by a designee of the Title IX coordinator. The designee may end the informal resolution process and request an investigation through the grievance process at any point if it is determined that one of the parties has sought or exercised undue influence over another party. Informal resolution processes must be completed within fifteen (15) business days; if no agreement has been reached an investigation will be conducted as outlined in the grievance process.

The formal complaint will be considered closed once the parties have reached a final agreement through the informal resolution

If a minor is involved, a parent or legal guardian shall have the legal right to act on behalf of a minor complainant, respondent, party, or other individual, such as filing a formal complaint.

Immigration or International Visa Information

Certain legal protections are available to international employees or students. The U-visa and the T-visa are currently among those options. The U-visa provides temporary legal status and work eligibility for complainants of specific crimes (including domestic violence, sexual assault, human trafficking, involuntary servitude, and other violations). The T-visa provides complainants of human trafficking and immediate family members with temporary legal status and work eligibility. Additional information is available through the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services at: <https://www.uscis.gov/>. For more information on this or other immigrant status questions, please contact Community Legal Aid Services in Akron at (330) 535-4191.

Records Retention

Records, including reports, formal complaints, investigation files, hearing decisions, appellate information and appeal decisions will be maintained by the University for seven (7) years as required by Title IX. Title IX records are subject to The University records retention policy and additional information is available at <https://www.uakron.edu/ogc/legal-policies-and-procedures/records/records-retention.dot>.

The records maintained will include any supportive measures taken in response to a report or formal complaint of sexual harassment. In each instance, the University will document the basis for its conclusion and that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the University does not provide a complainant with supportive measures, then the University will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

Annual Review of Reporting Protocols and Procedures

The Title IX Coordinator is responsible for this Protocol. It is reviewed annually and posted as required by law as part of the Annual Campus Safety Report. The University's Protocol is designed to comply with applicable state and federal laws. The University reserves the right to modify or deviate from this Protocol when, in the sole judgment of the University, circumstances warrant, to protect the rights of the involved parties or to comply with applicable law or regulations. Prior versions of the University Protocol are available upon request.

Training

All Title IX Coordinators, deputy Title IX coordinators, investigators, decision makers, individuals responsible for reviewing appeals, and individuals who facilitate the informal resolution process will, as applicable, receive training on:

- The definition of behaviors prohibited under this Protocol;
- Jurisdiction under Title IX;
- The scope of the University's education program or activities;
- Conducting grievance procedures including investigations, hearings, appeals, and informal resolution (as applicable); and
- How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

In addition, decision makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators will receive training on issues of relevancy to create an investigative report that fairly summarizes the relevant evidence. Materials used to train these individuals will be available on the University's website.

Educational Programs and Campaigns

The University strives to develop and maintain a campus culture that is safe for, and respectful of all its community members. To achieve this goal, the University offers a combination of prevention programs, awareness programs, and ongoing campaigns that are designed to create awareness of, and prevent prohibited behaviors identified in this Protocol. The initiatives outlined below are informed by research and periodically assessed for effectiveness.

Awareness - The University's awareness program start with online training which is mandatory for all new students and continues with programs specifically designed for first-time, first-year, students. Programs are also presented to the

Financial Assistance: [Ohio Victims of Crime Compensation Program](#) (877) 584-2846

Legal Assistance: [Akron Bar Association](#) (330) 253-5007

Legal Assistance: [Community Legal Aid](#) Services in Akron (330) 535-4191

Medical: [PATH Center](#) (Providing Access to Healing) (330) 344-1148 Akron General Hospital Emergency Room, 1 Akron General Hospital. Akron, OH 44307

Public Safety: [Akron Police Department](#) (330) 375-2658

Victim Advocacy: [Ohio Sexual Violence Helpline](#) (844) OHIO-HELP (1-844-644-6435). This helpline is a confidential, statewide hotline dedicated to serving survivors of sexual assault and relationship violence.

Victim Advocacy: [The National Sexual Assault Telephone Hotline](#) (800) 656-HOPE (4673). This hotline, operated by Rape Abuse and Incest National Network (RAINN), connects a caller with a local RAINN affiliate organization based on the first six digits of the caller's phone number.

Victim Advocacy: [Victim Assistance Program](#) (330) 376-0040

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