

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 responsi

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 drug use, during the time period immediately surrounding the reported behaviors prohibited by the gender-based misconduct protocol.

Jurisdiction

Jurisdiction as defined by Title IX of the Education Amendments of 1972 must occur within the University's programs, activities, and/or University owned or controlled locations in the United States, or in a building owned or controlled by a student organization officially recognized by The University, and where the University exercises substantial control over both the respondent and the context in which the prohibited conduct occurs.

Jurisdiction as defined by The University's Gender-Based Misconduct Policy Protocol may occur within circumstances in which the University exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to adversely affect the University, its students and/or employees including off campus occurrences.

Protections from discrimination outlined in this protocol are extended to all University students, faculty, and staff; as well as all applicants for admission to undergraduate and graduate studies and applicants for employment.

Students are prohibited by the University from engaging in prohibited conduct from the date they have been notified of their acceptance for admission until the date the degree is conferred; even though conduct may occur before classes begin or after classes end. Students who have not yet completed their degree and no longer actively enroll may be subject to a formal complaint as outlined in the grievance process. Employees are prohibited by the University from engaging in prohibited conduct from their first day of employment until their separation on the 16th day of e.e. .8(eted een n72(0719 -0(s)yu)-1.J -t).TJ 27

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

- x Course of conduct means two or more acts, including but not limited to, acts in which the talker directly indirectly, or through third parties, by any action, method, device, means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, interferes with a person's property.
- x Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Sex Discrimination

An unequal or disadvantageous treatment of an individual or group of persons based on their sex, gender, sexual orientation, and/or gender identity. This includes, but is not limited to, situations where individuals are harassed, excluded or denied equal access, or subjected to sex stereotyping in academic or extracurricular opportunities.

Retaliation

Retaliation occurs when an individual or group intimidates, threatens, coerces, or discriminates against an individual(s) for the purpose of interfering with any right or privilege secured by Title IX or this protocol or because the individual(s) has made a report or formal complaint of a violation of University policy, or testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing. A good faith pursuit of legal action or the exercise of rights protected under the First Amendment does not constitute retaliation.

Gender - Based Misconduct as defined by University Protocol – Part B

Gender Discrimination

An unequal or disadvantageous treatment of an individual or group of persons based on their sex, gender, sexual orientation, and/or gender identity. This includes, but is not limited to, situations where individuals are harassed, excluded or denied equal access, or subjected to sex stereotyping in academic or extracurricular opportunities.

Battery

As prohibited by The University, battery is intentionally, or recklessly, causing physical contact or bodily harm to another person because of a person's sex or gender.

Battery within the jurisdiction defined by The University Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

Indecent Exposure

As prohibited by The University, indecent exposure is the exposure of the private or intimate parts of the body in a lewd manner in public or in private when the respondent(s) may be observed and/or engaging in sexual activity in public.

Indecent Exposure within the jurisdiction defined by The University Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

Sexual Exploitation

As prohibited by The University, sexual exploitation is taking non-consensual, unjust, or abusive sexual advantage of another.

Examples include, but are not limited to:

- x taking, sharing, or copying pictures, video, or audio recording of nudity or sexual activity without consent;
- x knowingly allowing another to secretly watch otherwise consensual sexual activity;
- x engaging in non-consensual voyeurism;
- x sex trafficking or coercing another person to perform a sexual act with an individual or group;
- x inducing another to touch or expose their genitals; or
- x possession, use, and/or distribution of alcohol or other drugs (e.g., Rohypnol, Ketamine, BHBurudanga, etc.) for the purpose of engaging in or facilitating any activity prohibited herein.

Sexual Harassment

Sexual harassment is unwelcome sexual, sex-based, and/or gender-based verbal, written, electronic, and/or physical conduct that unreasonably interferes with an individual's work or educational experience or creates an intimidating, hostile, or offensive working, educational or residential environment. Sexual harassment includes but is not limited to:

Quid Pro Quo

Explicitly or implicitly conditioning an individual's employment, academic status, or participation in an educational program or activity on the individual's submission to or acceptance of sexual advances, requests for sexual favors, or conduct of a sexual nature made by a person having authority over the provision or denial of that employment, status, program, or activity.

Hostile Environment

Sexual, sex based, and/or gender-based verbal, written, electronic, and/or physical conduct that a reasonable person would consider severe or pervasive and that unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the University's educational programs, employment, and activities, or creates a hostile or offensive work, education

Requirement to Report

All employees are classified as either possible (mandatory) reporters or confidential reporters. Every employee is a mandatory

The University Police Officers receiving a report of gender-based misconduct must file a report with the University and evaluate whether a timely warning or safety notification will be made. While law enforcement officers are required to file a Title IX report, complainants are not obligated to pursue an investigation through the University.

What to Report

Concerns falling under this Protocol must be reported whether the conduct occurred on-campus, off-campus, at an academic, educational, co-curricular, athletic, study abroad, or other

If the report was submitted by a third party, the complainant will be provided an opportunity to review or amend the reported information. The complainant will review the grievance procedure with the deputy coordinator or designee and be offered assistance in submitting a formal complaint.

No decisions regarding formal complaints, reporting to police or police investigations, need to be made at this initial meeting

Removal for Safety Threat

Student

Pending action on the allegation(s), the status of a student shall not be altered, nor shall the student's right to be present on campus and to attend classes be suspended,

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 educational activity may file a formal complaint.

Investigation Process

Investigations will be conducted by trained investigators who are free from conflicts of interest or bias for or against complainants or respondents generally, or a particular complainant or respondent. The burden of gathering information rests with the University. There is an expectation that all parties will reasonably cooperate with requests to provide information. No medical, mental health, or other privileged records will be accessed, considered, or disclosed during the investigation unless the party who is the subject of those records provides voluntary, written consent.

All formal complaints will be investigated. The University may consolidate formal complaints where the allegations arise out of the same facts or circumstances, including allegations against more than one respondent, allegations by more than one complainant against one or more respondents or by a respondent against a complainant.

The investigation process will include interviews with the parties, witnesses (appropriate and identified), and the collection of evidence. Witness names, including fact or expert witnesses, may be provided by either party or by other witnesses. Both parties also have the opportunity to present any evidence to the investigator related to determining responsibility. All evidence that the parties wish to have considered by the investigator must be provided by the date specified by the investigator.

Parties and witnesses will be provided with written notice of the date, time, location, purpose and identity of participants for any interview or meeting where they are expected to participate. At least two (2) business day notice should be given to the investigator if an advisor will attend the interview. Interviews may be recorded without the written permission of the investigator.

The parties have the right to inspect and review all evidence collected during the investigation that is directly related to the allegations raised in the formal complaint. Copies of all evidence directly related to the allegations will be provided to the parties and their advisor at the conclusion of the investigation and prior to the issuance of the final investigatory report. Either party may submit a written response to this evidence or address the impact that evidence on the investigation no later than ten (10) business days after the evidence has been provided to review. Copies of the written responses will be included with the final report.

After the ten (10) business day period for submission of a written response, the investigator will prepare a written report summarizing the relevant evidence gathered during the investigation. This report will provide an objective evaluation of all relevant evidence, both inculpatory and exculpatory. In creating the report, the investigation will consider any written responses submitted by the parties during the evidence review process. The written report will be provided to both parties and their advisors at least ten (10) business days in advance of the hearing. Parties may submit a written response to the report within five (5) business days after the report is issued. These responses will be shared with the other party, the advisor, and the hearing officer prior to the hearing.

Dismissal of Formal Complaints

Formal complaints filed under Title IX of the Education Amendments Act of 1972 will be dismissed if the conduct alleged: (1) did not occur on the campus of the University; (2) did not occur on the property of the University; (3) did not occur while the complainant or respondent was attending the University; or (4) did not occur while the complainant or respondent was participating in an activity sponsored by the University.

Hearing Process

A live hearing will occur following the issuance of the investigative report. The University may conduct this live hearing through a virtual platform that permits the parties to simultaneously view and hear each other and the proceedings. The parties, their advisors, and all witnesses will be notified in writing of the date, time, and location of the hearing no later than ten (10) business days before the hearing. All parties must have an advisor. A party may request a University advisor for the hearing. At the request of either party, the hearing will be conducted electronically with the parties in separate rooms. No findings of responsibility will be made by the hearing officer based solely on an individual's absence from the live hearing or failure to answer questions at the hearing.

During the hearing, the parties' advisors will have the opportunity to cross-examine the other party and witnesses, including on issues of credibility. Advisors may, but are not required to be, an attorney. All questioning will be conducted in accordance with the University's rules of decorum. The parties may not ask questions directly of the other party or witness. If a party does not have an advisor, the University will provide an advisor for the hearing at cost to that party. All evidence directly related to the allegations which was obtained as part of the investigation will be made available to the parties and their advisors for use at the hearing.

The hearing officer will determine the admissibility of any questions asked during the hearing. In doing so, the hearing officer is not bound by the Ohio Rules of Evidence or the Federal Rules of Evidence. Questions about the complainant's sexual predisposition or prior sexual behavior will not be permitted unless offered to prove that someone other than the respondent committed the alleged conduct or offered to prove consent as defined under this Protocol. Questions seeking disclosure of legally privileged information such as medical or mental health information, discussions with attorneys, counselors, or religious/spiritual advisors, will not be permitted without the express written consent of the individual holding the privilege.

The hearings will be video recorded. A copy of the recording will be made available to either party upon written request.

Hearing Outcome

The hearing officer will determine responsibility for a violation of this Protocol following the hearing using a preponderance of the

Records Retention

Records, including reports, formal complaints, investigations, 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/cgc/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 updated 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:

- x The definition of behaviors prohibited under this Protocol;
- x Jurisdiction under Title IX;
- x The scope of the University's education program or activities;
- x Conducting grievance procedures including investigations, hearings, appeals, and informal resolution (as applicable); and
- x 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 in 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 fully 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. These initiatives outlined below are informed by research and periodically assessed for effectiveness.

Awareness The University's awareness programs 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 University during Domestic Violence Awareness Month and Sexual Assault Awareness Month.

Prevention The University's prevention program has been built upon several activities. Programs have included presentations during the Akron Experience Course, posters, environmental and media displays around campus, online training for upper-class students, mandatory training for faculty and staff and a program designed to better help men understand wellness and health, their own experiences. Trainings include steps students can take to increase personal empowerment for creating a safe community by proactively addressing conditions that tend to make violence possible and safety options for bystander interventions.

- x Community Partners: Hope and Healing – the Rape Crisis Center of Summit and Medina Counties, OneEighty – the Rape Crisis Center of Wayne and Holmes Counties and the Summit County Prosecutors Office of Victim Services

On and Off Campus Resources

Information about resources available both on and off campus including counseling services, mental health services, victim advocacy, financial, and legal assistance are provided. Students and employees are encouraged to speak with a deputy Title IX coordinator to learn more about specific resources or services available at The University or within the community.

Akron Campus

- x Counseling and Mental Health Services [Clinic for Individual and Family Counseling](#) (330) 972-6822
- x Counseling and Mental Health Services [Counseling and Testing Center](#) Simmons Hall 306, (330) 972-7082.
- x Counseling and Mental Health Services [Department of Psychology Counseling Clinic](#) (330) 972-6714
- x Counseling and Mental Health Services [Employee Assistance Program](#) provider (“EAP”) is available to all employees.
 - o (800) 227-6007. EAP is a resource provided by the University through off campus providers that do not report
- x Employee Services [Equal Employment Opportunity/Affirmative Action](#) (330) 972-7300
- x Financial Assistance [Student Emergency Financial Assistance](#) program (330) 972-7272
- x Housing and Student Support Services [Residence Life and Housing](#) (330) 972-7800
- x Medical and Student Support Services [Student Health Services](#) Student Recreation and Wellness Center, 260, (330) 972-7808.
- x Public Safety [University of Akron Police Department](#) (330) 972-2911
- x Student Support Services [Dean of Students Office](#) (330) 972-6048
- x Student Support Services [Inclusive Excellence](#) (330) 972-7522
- x Student Support Services [Student Conduct and Community Standards](#) (330) 971-6380
- x Victim Advocacy and Counseling [Hope and Healing the Rape Crisis Center of Medina and Summit Counties](#) Student Recreation and Wellness Center, 246, (330) 434-7273.

Wayne Campus

- x Counseling and Mental Health Services [Counseling and Accessibility Services](#) Boyer HPE Building, B112, Wayne Campus, Orrville OH (330) 684-8767
- x Public Safety: University of Akron Police (Wayne Campus) (330) 684-8910
- x Student Support Services [Wayne Campus Student Services](#) (330) 684-8900

Off Campus

- x Counseling and Victim Advocacy [Hope and Healing BV](#) (330) 374-1111 Battered Women’s Shelter of Summit and Medina Counties, 974 Market St. Akron, OH 44305
- x Counseling and Victim Advocacy [Hope and Healing RC](#) (330) 434-7273 Rape Crisis Center of Summit and Medina Counties, 974 Market St. Akron, OH 44305
- x Counseling and Victim Advocacy [OneEighty](#) (800) 686-1122 Rape Crisis Center of Summit and Wayne Counties, 104 Spink St. Gault Liberty Center Wooster, OH 44691
- x Financial Assistance [Ohio Victims of Crime Compensation Program](#) (877) 584-2846
- x Legal Assistance [Akron Bar Association](#) (330) 253-5007
- x Legal Assistance [Community Legal Aid](#) Services in Akron (330) 535-4191
- x Medical: [PATH Center](#) (Providing Access to Healing) (330) 344-1148 Akron General Hospital Emergency Room, 1 Akron General Hospital. Akron, OH 44307
- x Public Safety [Akron Police Department](#) (330) 375-2658
- x Victim Advocacy [Ohio Sexual Violence Helpline](#) (844) OHIO-HELP (1-844-644-435). This helpline is confidential, statewide hotline dedicated to serving survivors of sexual assault and relationship violence.
- x Victim Advocacy [The National Sexual Assault Telephone Hotline](#) (800) 656-HOPE (4673). This hotline, operated by Rape Abuse and Incest National Network (RAINN), connects caller with a local RAINN affiliate organization based on the first six digits of the caller’s phone number.
- x Victim Advocacy [Victim Assistance Program](#) (330) 376-0040