8. SEXUAL MISCONDUCT POLICY

Members of the university community have the right to be free from all forms of sexual misconduct which impede the realization of the university’s mission of distinction in education, scholarship, and service. All members of the university community are expected to conduct themselves in a manner that maintains an environment free from sexual misconduct.

Sexual misconduct violates the dignity of individuals and will not be tolerated. The university community seeks to eliminate sexual misconduct through education and by encouraging everyone to report concerns or complaints, including third parties when the accused is a member of the university community. The university is committed to stopping sexual misconduct, preventing its recurrence, eliminating any hostile environment, andremedying its discriminatory effects. This policy defines expectations for the university community and establishes mechanisms for determining when those expectations have been violated.

The OSU Sexual Misconduct policy applies to Ohio State faculty, staff, students, student employees, graduate associates, appointees, volunteers, vendors, and visitors. The policy defines sexual misconduct, sexual harassment, and related terms. It also addresses:

- medium, location, jurisdiction;
- Title IX coordinator;
- prohibited romantic and/or sexual relationships;
- employee duty to act;
- confidentiality;
- retaliation;
- investigation and resolution options;
- remedies;
- false allegations; and
- use of sexual misconduct allegations in employment or academic actions.

The policy in its entirety may be found at:  http://hr.osu.edu/policy/policy115.pdf

The University administration, faculty, staff, student employees, and volunteers are responsible for assuring that the University maintains an environment for work and study free from sexual misconduct. **Sexual misconduct** is conduct of a sexual nature or conduct based on sex or gender that is nonconsensual or has the effect of threatening, intimidating, or coercing a person. This includes sexual harassment, sexual violence, relationship violence and stalking. Sexual misconduct is a form of sex- and gender-based discrimination. Additional definitions including those for sexual harassment, sexual and relationship violence, stalking and consent are given in Policy 1.15.
POLICY GUIDELINES

I. Definition

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when it meets any of the following:

A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic status.
B. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual.
C. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive environment for working, learning, or living on campus. Sexual harassment can occur between any individuals associated with the University, e.g., an employee and a supervisor; coworkers; faculty members; a faculty, staff member, or student and a customer, vendor, or contractor; students; or a student and a faculty member.

II. Examples of Sexual Harassment

Examples of sexual harassment include, but are not limited to:

A. Some incidents of physical assault.
B. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation.
C. Direct propositions of a sexual nature and/or subtle pressure for sexual activity that is unwanted and unreasonably interferes with a person’s work or academic environment.
D. A pattern of conduct that unreasonably interferes with the work or academic environment (not legitimately related to the subject matter of a course) including:
   1. Sexual comments or inappropriate references to gender.
   2. Sexually explicit statements, questions, jokes, or anecdotes regardless of the means of communication (oral, written, electronic, etc.).
   3. Unwanted touching, patting, hugging, brushing against a person’s body, or staring.
   4. Inquiries and commentaries about sexual activity, experience, or orientation.
   5. The display of inappropriate sexually oriented materials in a location where others can view them.

III. Romantic and/or Sexual Relationships

Romantic and/or sexual relationships between individuals in a supervisory, teaching, evaluation, advising, coaching, or counseling relationship constitute a conflict of interest. The person in the position of higher institutional authority has the responsibility to eliminate the conflict of interest. The conflict of interest must be eliminated in a way which minimizes potential for harming the person with lower institutional authority.
Faculty, staff, and students who are in the position to influence academic or employment decisions about others with whom they are in a romantic and/or sexual relationship should recuse themselves from such decisions.

In the event of an allegation of sexual harassment, the University will strictly scrutinize a defense based upon consent when the facts establish that an institutional power differential existed within the relationship.

A. Prohibited relationships

1. Romantic and/or sexual relationships between faculty/staff/graduate associates/undergraduate TAs and students, and between attending physicians and medical residents/interns/fellows, cannot continue whenever there are supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities for the student. Alternative academic/ supervisory arrangements must be made to avoid being in a prohibited relationship; if acceptable alternative arrangements are not feasible, the relationship cannot continue.

2. No person involved in a romantic and/or sexual relationship will have direct responsibility for evaluating the performance or for making decisions regarding the hiring, promotion, tenure, compensation, or termination of the other party to the relationship. Supervisors, including faculty supervisors, must take immediate steps to make acceptable alternative arrangements regarding their supervisory responsibility for the other party to avoid an actual or apparent conflict of interest. If acceptable alternative arrangements are not feasible, the relationship cannot continue.

3. Notification responsibilities to avoid prohibited relationships:

University faculty/staff/graduate associates/undergraduate TAs must notify their supervisor (e.g. dean, chair, vice president, direct supervisor, etc.) of any prohibited relationship in which they are involved; and, have a duty to cooperate in making acceptable alternative arrangements. The Office of Human Resources, Organization and Human Resource Consulting, is available to facilitate or consult with parties about notification and making acceptable alternative arrangements.

Individuals who engage in prohibited relationships (i.e., who do not notify their supervisors and do not make acceptable alternative arrangements) are in violation of this policy. Supervisors, including faculty supervisors, who obtain information that would lead a reasonable person to believe that the Romantic and/or Sexual Relationships section of this policy has been violated, have an institutional duty to report the violation to the Office of Human Resources, Organization and Human Resource Consulting.

Individuals in positions of power, who engage in a series of exploitive sexual or romantic relationships, whether or not notification has occurred, may be held in violation of the romantic and/or sexual relationship policy.
4. Acceptable alternative arrangements:

Acceptable alternative arrangements means removing any supervisory, teaching, evaluation, advising, coaching, or counseling responsibilities between the person with institutional power and the student or employee. The alternative arrangements should avoid negative consequences for the student or employee; if acceptable alternative arrangements are not feasible, the relationship cannot continue.

B. Corrective action

After a thorough review of the facts, corrective action will be taken with any faculty/staff/student employee who violates this romantic and/or sexual relationship policy by:

1. Entering into or engaging in a prohibited relationship without notification and without making immediate acceptable alternative arrangements, or
2. Failing to follow any part of this policy, or
3. Failing to implement any responsibility of supervisors as identified in this policy. This applies to all supervisors, including faculty who serve in supervisory roles.
4. The corrective action process will be in accordance with university policies, faculty rules, or Code of Student Conduct.
5. An individual who promptly provides notification of a prohibited relationship and cooperates in making acceptable alternative arrangements in a timely manner will not be held in violation of the romantic and/or sexual relationship policy.

C. Important advisory statement on romantic/sexual relationships

Individuals in positions of power must be aware that romantic or sexual relationships with students are fraught with danger for exploitation and pose a legal risk to both the individual and the institution.

There are special risks in any sexual or romantic relationship between individuals in inherently unequal positions of power. These relationships may be subject to concerns about the validity of consent and unfair treatment of other students or employees. Such relationships can undermine the atmosphere of trust essential to the educational process and the employment relationship. They may, moreover, be less consensual than the individual whose position confers power believes. The apparent consensual nature of the relationship is inherently suspect due to the fundamental asymmetry of power in the relationship and it thus may be difficult to establish consent as a defense to a charge. Even when both parties consented at the outset to a romantic or sexual involvement, this past consent does not remove grounds for or preclude a charge or subsequent finding of sexual harassment based upon subsequent unwelcome conduct. The greater the institutional power differential that exists the greater risk there is for exploited consent. Exploited consent exists when consent to a relationship is given as a function of the position of power one occupies over another within an institution.
Many international students, faculty, and staff come from cultures in which deference to any authority figure is important and sexual harassment laws do not exist. Some individuals may be especially vulnerable to exploitive relationships given cultural, language, and immigration/visa issues. Faculty, staff, and students should be very careful to avoid relationships that may be exploitive in nature.

The University discourages romantic and/or sexual relationships between faculty and students, for all the reasons provided above.

The University strongly discourages romantic and/or sexual relationships between faculty and graduate students when in the same department; between faculty and undergraduate students majoring in the faculty member’s area of expertise; when the faculty member has any influence over academic judgments about the student; and, in any context when the perceived power differential may be significant.

Finally, it is important to be aware that in some cases non-consensual relations may constitute sexual harassment, and allegedly consensual relations that “go bad” may later result in allegations of sexual harassment.

IV. Duty to Act

Any Human Resource Professional (HRP); supervisor, including faculty supervisors; chair/director; or faculty member who becomes aware of information that would lead a reasonable person to believe that sexual harassment has occurred will notify the Office of Human Resources, Organization and Human Resource Consulting, by ensuring that a Discrimination/Harassment Complaint Form or other appropriate documentation is filed within five working days of becoming aware of the information. The Complaint Form/documentation will initiate collaboration between the Office of Human Resources, Organization and Human Resource Consulting and the unit HRP to determine how to proceed with resolving the complaint.

V. Regulations

A. Confidentiality and non-retaliation

The University will make every reasonable effort to conduct all proceedings in a manner that will protect the confidentiality of all parties. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.

University policy and state and federal law prohibit retaliation against an individual for reporting sexual harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the sexual harassment allegation.

The University has a compelling obligation to address allegations and suspected instances of sexual harassment when it obtains information that would lead a reasonable person to believe that this policy has been violated. The University is not precluded from taking any action it deems appropriate, including informing the alleged harasser of the complaint and pursuing an investigation even in cases when
the complainant is reluctant to proceed. The complainant will be notified in advance when such action is necessary.

**B. Corrective measures**

When it has been determined that sexual harassment has occurred, steps will be taken to ensure the harassment is stopped immediately. Corrective measures consistent with the severity of the offense will be imposed consistent with applicable University procedures and may include sanctions.

Sanctions imposed on the harasser may include, but are not limited to, a reprimand, suspension, or dismissal from the University. In the event that a record of such sanctions will become a part of the harasser’s personnel records, prior notice will be given to the harasser. Sanctions also may be imposed on any individual with a duty to act (under this policy and associated procedures) who fails to respond to a complaint of sexual harassment in a manner consistent with the provisions of this policy and the associated procedures. The complainant will be informed of the corrective measures taken.

**Reporting and Complaint Procedures**

http://titleix.osu.edu/sidebar-resources/response/filing-a-complaint/report.html

A report can be made by any individual who is directly involved in, who observes, or who reasonably believes that sexual misconduct may have occurred. This includes allegations by third parties against any individual covered by this policy. Members of the university community have a duty to report such information. All Title IX complaints are ultimately reported up to the Title IX Coordinator.

- OSUCOM medical students may report incidents of sexual misconduct to Dr. Joanne Lynn, or the dean on call (614-685-3059) who will provide immediate support and help the student to make connections with resources and investigative bodies as desired. Students may also discuss issues of sexual misconduct with the COM personal counselor, Lora Eberhard (614-292-3340).

- Students who are survivors of sexual assault, stalking, domestic or dating violence are strongly encouraged to report the incident(s) to law enforcement in the jurisdiction in which the incident(s) occurred.
  - In an emergency, please dial 9-1-1.
  - Non-emergency contact information for other local police agencies include:
    - Columbus Police Division  614-545-4545
    - Clinton Township Police  614-471-1479
    - Upper Arlington Police  614-583-5150
    - Grandview Heights Police  614-488-7901

- To report an assault or other crime to the University Police Division (non-emergency), please call 614-292-2121. Survivors are advised that reporting an assault to the University Police or other law enforcement or campus security authorities does not require filing...
criminal charges, but provides the opportunity for collection of evidence helpful in prosecution and helps facilitate all support systems to be put in place for the survivor.

- **OSU Student Conduct** investigates complaints against OSU students and student groups. Contact Student Conduct to arrange a meeting with one of the hearing officers to discuss the complaint at 550 Lincoln Tower, 614-292-0748 or email studentconduct@osu.edu.

- Complaints or reports against faculty or staff members are investigated by **The OSU Department of Human Resources**, 1590 N. High St., Suite 300, 614-292-1050.

- **Reporting to the Title IX Coordinator**—If you have concerns about any of the processes listed above or do not know where to go or with whom to speak, you may contact the Title IX Coordinator at titleix@osu.edu or file a report online. Complaints, reports or other concerns can be submitted directly through our Title IX website. A “red button” submission tab on the upper left of the homepage can be used to file any Title IX related complaint.

- Filing a report with the university does not preclude the individual from filing a report with external law enforcement or any other agency nor does it extend time limits with those agencies. Individuals may request assistance from the Title IX coordinator or deputy coordinator to notify such authorities.

All university employees, except those exempted by legal privilege of confidentiality or expressly identified as a confidential reporter, have an obligation to report incidents of sexual assault. Any employee, who becomes aware of information that would lead a reasonable person to believe that sexual assault may have occurred involving anyone covered under this policy, must report such information immediately.

Employees with a duty to report may make such reports in the following formats:

1. To report any information regarding sexual misconduct, contact the Title IX coordinator by emailing titleix@osu.edu; or

2. To report allegations of employee sexual misconduct, contact the deputy Title IX coordinator in the Office of Human Resources by calling 614-292-2800 (medical center employees contact 614-293-4988), filing a Discrimination and Harassment Complaint form; or emailing sexualharassment@osu.edu; or

3. To report allegations of student sexual misconduct, contact the deputy Title IX coordinator in the Office of Student Life, Student Conduct Department by calling 614-292-0748 or emailing studentconduct@osu.edu.
RESOURCES AND ADDITIONAL INFORMATION

Kellie Brennan, Compliance Director and Title IX/Clery Coordinator
Office of University Compliance and Integrity
South Campus Gateway
1534 N. High St., Columbus, OH 43201-2190
614-247-5838 (Office)
513-602-7047 (Cell)
brennan.241@osu.edu titleix.osu.edu compliance.osu.edu

OSU Title IX website:
http://titleix.osu.edu

OSU Code of Student Conduct
http://trustees.osu.edu/rules/code-of-student-conduct/

OSU Office of Human Resources Sexual Harassment Policy 1.15

Support Resources
http://www.titleix.osu.edu/sidebar-resources/response/resources.html

Counseling and Consultation Service
614-292-5766
http://www.ccs.osu.edu

Student Advocacy Center, Sexual Civility, and Empowerment Program
614-292-1111
http://sce.osu.edu/

Student Health Services
614-292-4321

SARNCO 24 hour Rape Helpline
614-267-7020
Sexual Assault Response Network of Central Ohio (SARNCO) works with local law enforcement and social services agencies to provide medical and social support services to victims of sexual assault. Services include evaluation and treatment in local emergency departments, emotional support from volunteer advocates, a 24-hour rape helpline, referrals to aftercare counseling.

Office of Student Life
614-292-9334
studentlife.osu.edu