

The University of Toledo Title IX Policy

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Immediate Assistance and Reporting Options

The University of Toledo (“University”) is committed to educational and working environments that are free from sex discrimination (including sexual harassment and sexual violence) or retaliation. Individuals who experience sexual misconduct in a University program or activity, whether on or off campus, are encouraged to utilize one or more of the following options:

1. Medical Assistance (Confidential)

The University of Toledo Medical Center, 3000 Arlington Ave., Toledo, Ohio 43614, 419.383.4000, (Sexual Assault Nurse Examiner (SANE) available)

2. Assistance from Law Enforcement

Dial 911 to reach the Toledo Police or Call the UT Police at 419.530.2600

Reports may be made to law enforcement and the university simultaneously.

3. UT Counseling Center (Confidential)

The University Counseling Center provides free and confidential counseling services to enrolled students. Counselors are available Monday through Friday during regular office hours, as well as after-hours for emergency situations. **Counseling Center, Rocket Hall 1810, 419.530.2426; http://www.utoledo.edu/studentaffairs/counseling/about_us.html**

4. Report to the University

David Cutri

Director of Internal Audit and Compliance

Title IX Coordinator

2801 W. Bancroft Street

Learning Resources Center 3850

Toledo, OH 43606-3390

Phone: (419) 530-8718


Email: david.cutri@utoledo.edu

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5. Off-campus Resources

YWCA H.O.P.E. Center 24-hour Rape Crisis Hotline 419.241.7273

YWCA Battered Women’s Shelter 419.241.7386

Name of Policy: The University of Toledo's Title IX Policy Policy Number: 3364-50-01 Approving Officer: President Responsible Agent: Title IX Coordinator Scope: All University of Toledo Campuses; see section (C)			 Revision date: August 31, 2015 Original effective date: December 1, 2007
<input type="checkbox"/>	New policy proposal	<input checked="" type="checkbox"/>	Minor/technical revision of existing policy
<input type="checkbox"/>	Major revision of existing policy	<input type="checkbox"/>	Reaffirmation of existing policy

(A) Policy Statement**Title IX Notice of Non-Discrimination**

The University of Toledo ("University") is committed to educational and working environments that are free from discrimination on the basis of sex (including sexual harassment and sexual violence) or retaliation. Title IX of the Education Amendments of 1972 ("Title IX") is a federal law that prohibits sex discrimination. This policy is consistent with the requirements of Title IX, Title VII, as well as relevant state laws.

The University encourages the reporting of sexual misconduct or retaliation that may occur in its programs or activities, whether on or off campus, to ensure that the University has an opportunity to address prohibited conduct. Reports may be made online on the University's website, https://publicdocs.maxient.com/reportingform.php?UnivofToledo&layout_id=7 or by contacting one of the individuals identified below.

Sexual misconduct includes sex discrimination, sexual harassment, sexual violence, sexual assault, conduct that exploits another person in a sexual and non-consensual way (such as voyeurism and non-consensual recording), stalking, dating violence, domestic violence, and indecent exposure.

The following individual has been designated to handle inquiries and reports concerning Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex:

David Cutri
 Director of Internal Audit and Compliance

Acting Title IX Coordinator

Learning Resource Center Room 3850

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The Title IX Coordinator is assisted by three Deputy Title IX Coordinators:

Mary Martinez

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The Deputy Title IX Coordinators investigate allegations of sexual misconduct, assist individuals who may require interim measures following a report of sexual misconduct, and provide information and resources to the campus community.

Inquiries regarding sex discrimination also may be directed to:

Office for Civil Rights
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115
Telephone: (216) 522-4970
TDD: (800) 877-8339
Email: OCR.Cleveland@ed.gov

Anti-Discrimination/Anti-Harassment Statement

The University of Toledo is strongly committed to maintaining a safe campus and preventing unlawful discrimination and harassment in its programs and activities. Upon notice of possible sex discrimination, sexual harassment, or sexual violence (collectively referred to as “sexual misconduct”) the University takes prompt and appropriate steps to determine what occurred, end a hostile environment if one has been created, and prevent the recurrence of a hostile environment. The University ensures that it utilizes fair and impartial processes that are mindful of the rights of individuals accused of sexual misconduct, while taking steps to ensure equal treatment of complainants and provide necessary interim or protective measures. If the University finds that sexual misconduct in violation of this policy has occurred, it imposes robust disciplinary sanctions and provides remedies to complainants and the campus community, as appropriate. The University does not tolerate unlawful retaliation, including retaliatory harassment, in its programs and activities.

(B) Purpose

The University seeks, through this policy, to acknowledge and comply with its duties under federal and state laws and set forth a comprehensive framework for receiving, processing, investigating, and resolving complaints of sexual misconduct. This policy also provides the University community with necessary information regarding how to make complaints, receive assistance and support, and what to expect from the investigation process.

(C) Scope

This policy is intended to, and does, supersede any other policies or portions of policies that include definitions, procedures, or other provisions that conflict with this policy.

This policy applies to all faculty, staff, students, student organizations, and third parties (i.e., individuals such as vendors and visitors), regardless of sexual orientation or gender identity. The policy covers sexual misconduct or retaliation that occurs in University programs and activities, that is, on University property or at University sponsored events. This includes instances where sexual misconduct or retaliation occurs off-campus but has an effect on-campus, on University property, or at a University-sponsored event.

All reports of alleged sexual misconduct in a University program or activity -- that is, any reports regarding sexual misconduct on any campus or within any department or college or athletic

program -- will be investigated in the manner set forth in this Policy. No other policy's sexual misconduct investigatory process may take the place of the investigation process outlined in this policy.

Claims that allege both "sexual misconduct" as defined by this policy and other unlawful discrimination or harassment covered by Policy 3364-50-02 will be addressed under this policy.

The University upholds the requirements of the Constitution of the United States of America. This policy will not be interpreted to impinge upon any constitutionally protected rights or privileges, including under the First or Fifth Amendments. This policy will not be used to impose discipline for speech that is protected by the First Amendment.

(D) Definitions and Examples

(Additional relevant definitions and examples, including state law definitions, are set forth in Appendices B and C to this policy.)

Based on sex or On the basis of sex: Includes but is not limited to conduct based on an individual's gender identity, gender expression, or sexual orientation.

Complainant: The individual alleged to have experienced sexual misconduct or retaliation. In certain circumstances, the University may assume the role of the complainant.

Consent: Consent requires unambiguous communication and mutual agreement concerning the sexual act in which the participants are engaging. Consent must be informed, freely given, mutual, and can be withdrawn at any time. A person cannot give consent if he or she is mentally or physically incapacitated or impaired such that the person cannot understand the fact, nature, or extent of the sexual situation; this includes impairment or incapacitation due to age, alcohol or drug consumption, or being asleep or unconscious. Similarly, a person cannot give consent if force, expressed or implied, duress, intimidation, threats, or deception are used on the accuser. Silence or the absence of resistance does not necessarily imply consent. Consent to some sexual acts does not imply consent to other acts, nor does prior consent to sexual activities imply ongoing future consent with that person or consent to that same sexual activity with another person. Whether an individual has taken advantage of a position of influence or authority over an accuser may be a factor in determining consent.

Dating violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence includes sexual or physical abuse or the threat of such abuse.

Days: In this policy, "days" refers to calendar days.

Domestic violence: Domestic violence is violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a

person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Ohio.

Employee: faculty, staff, or others hired in an employment capacity to provide services to the University, including medical residents.

Incapacitation: Incapacitation occurs where a person is unable to give consent, such as due to the use of drugs or alcohol or when a person is asleep or unconscious, or because of an intellectual or other disability that prevents someone from having the capacity to give consent. In considering whether a complainant is incapacitated due to the consumption of drugs or alcohol, the University will consider the circumstances, including factors such as whether there is evidence of slurred speech, vomiting, stumbling or the inability to walk, or periods of "blacking out." The presence of one of these factors, standing alone, may not be sufficient to establish incapacitation; the totality of the circumstances must be examined.

Respondent: The individual alleged to have engaged in sexual misconduct or retaliation.

Retaliation: Retaliation is a form of discrimination. It occurs when an individual has engaged in a protected activity (such as filed a sexual misconduct complaint or participated in an investigation of alleged sexual misconduct) and adverse action is taken against the individual because of involvement in the protected activity.

Example: A student files a sexual misconduct complaint against a professor. The professor gives the student a poor grade because the professor is upset that the student filed a complaint.

Example: A student files a complaint alleging sexual misconduct. The respondent's friends follow the student around campus every day and make verbal threats because the student filed a complaint.

Sexual assault: Unwelcome physical conduct of a sexual nature, including unwanted kissing, touching, oral, vaginal, or anal sex, which occurs in the absence of consent. This includes penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent.

Sex discrimination: Negative or adverse treatment based on sex.

Sexual harassment: Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. A single instance of rape is sufficiently severe to create a hostile environment. Sexual harassment can occur in one of two forms:

Hostile environment: This exists if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the University's program or an employee's ability to perform his or her job. The more severe the conduct, the less

need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical.

Quid pro quo: This occurs when participation in or receipt of a benefit of the University's program is made contingent on the provision of sexual favors for or by a person who has the authority to make decisions about participation or receipt of benefits or when the rejection of a sexual advance or request for sexual favors results in the denial of participation in or receipt of a benefit of the University's program.

Examples of sexual harassment: (1) A student is sexually assaulted by another student; (2) A professor repeatedly asks a student to have sex with them in order to get a better grade; (3) students in a residence hall target another student by writing unwelcome sex-based comments on the student's door; making negative, sex-based comments to the student in class, and threatening physical harm to the student.

When the facts establish that an institutional power differential existed within the relationship and an allegation of sexual harassment results, the University will closely scrutinize a defense that the relationship was consensual.

Sexual misconduct: Sexual misconduct includes sex discrimination, sexual harassment, sexual violence, sexual assault, conduct that exploits another person in a sexual and non-consensual way (such as voyeurism and non-consensual recording), stalking, dating violence, domestic violence, and indecent exposure. Sexual misconduct may also be discrimination, harassment, or violence based on sexual orientation, gender identity, or gender expression.

Sexual violence: Sexual violence is physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (for example, due to the person's age or use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

Stalking: Stalking means engaging in a course of conduct directed at a specific person that would: (1) cause a reasonable person to fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

Student: includes those included in the definition of "student" in Policy 3364-30-04 and student workers.

(E) Making a Report

(1) *Where and how to file a complaint.*

Timeframe for filing. Complaints of sexual misconduct must be filed within 300 days of the last act of alleged discrimination. Individuals who file complaints after this timeframe may request a waiver, in writing, to the Title IX Coordinator. The request for a waiver should set forth the reason that the complaint was not filed earlier. The University

encourages timely reporting of complaints as delays in filing may impair the University's ability to respond fully to the complaint. For example, memories fade over time and evidence may be lost, which may hamper an investigation.

Where to file. A complaint can be made by completing a Complaint Form available on the University's website at: https://publicdocs.maxient.com/reportingform.php?UnivofToledo&layout_id=7. The completed form also may be hand delivered, faxed, emailed, or mailed to the Title IX Coordinator or any of the Deputy Title IX Coordinators listed above.

Anonymous complaints. Persons may also make anonymous complaints by calling the toll-free Compliance Concepts hotline at 1-888-416-1308.

(2) Confidentiality

The University takes seriously the need to respect the privacy of the parties in responding to reports and complaints of sexual misconduct. The University shares information on a limited, "need to know" basis, in accordance with federal and state privacy laws and the Ohio Public Records Act.

In some instances, complainants may request that the University handle their complaints in a confidential manner. The University generally will respect a complainant's request for confidentiality; however, in some instances, the University may not be able to honor such a request. The University's Title IX Coordinator reviews requests for confidentiality, taking into account factors including whether the safety of others or the campus is at issue and the number of complaints against a respondent. The complainant will be notified of the determination regarding the request for confidentiality as soon as possible.

The University is required to share with the University's Police Department information regarding certain conduct (e.g., reports of sexual assault, dating violence, domestic violence, and stalking), unless the reports are made exclusively to confidential sources. To maintain the confidentiality of a report of sexual misconduct, complainants should utilize the University's Counseling Center, University's Psychology Clinic or the off campus resources identified below. Contact information for confidential reporting resources is provided below in Appendix A.

(3) Student Amnesty

The University encourages the reporting of incidents of sexual misconduct and recognizes that some students may be reluctant to make reports or respond fully in an investigation as a result of their conduct at the time of the incident. Students involved in the Title IX process as complainants, respondents, or witnesses generally will not be subject to disciplinary action as a result of their personal consumption of drugs or alcohol at the time of the incident, as long as their conduct did not pose a threat to the health and safety of others. Complainants, respondents, and witnesses who engaged in other Student

Code of Conduct violations at the time of the incident also may not be subject to disciplinary action, at the University's discretion, if those violations are non-violent and non-discriminatory in nature. The University may nevertheless impose educational remedies related to the use of drugs or alcohol or participation in non-violent and non-discriminatory Student Code of Conduct violations.

(4) *Mandatory reporting*

Who must report? Responsible employees are required to immediately report to the Title IX Coordinator incidents of sexual misconduct in University programs and activities of which they are aware. Reports should be submitted via the online reporting form at: https://publicdocs.maxient.com/reportingform.php?UnivofToledo&layout_id=7 within 48 hours of being notified of an alleged incident.

A responsible employee includes any employee: who has the authority to take action to redress sexual misconduct; who has been given the duty of reporting incidents of sexual misconduct or any other misconduct by students or employees to the Title IX Coordinator or other appropriate school designee; or whom a student or employee could reasonably believe has this authority or duty.

At the University of Toledo, (except for certain individuals employed at the Counseling Center or Psychology Clinic) *all employees are responsible employees*. This designation is consistent with certain state law requirements, including Ohio Revised Code sec. 2921.22, which, with certain exceptions, provides that "no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities."

What must be reported? When making a report of sexual misconduct, responsible employees must report to the Title IX Coordinator via the online complaint form: https://publicdocs.maxient.com/reportingform.php?UnivofToledo&layout_id=7 the details of the incident of which they are aware. This may include information such as the names of the complainant and respondent; the date, time, and location of the incident; and the nature of the incident, including available facts about what occurred. Responsible employees should not independently investigate or conduct an inquiry into incidents of sexual misconduct.

(5) *The University's Police Department and Local Law Enforcement*

Making reports to law enforcement. The University is committed to working cooperatively with the University's Police Department, as well as local law enforcement agencies. Individuals who experience sexual misconduct may choose to make a report to the University's Police Department (419.530.2600 or 419.383.2600) or the applicable local law enforcement agency. Complainants may choose to report to both the University's Police Department and the Title IX Coordinator.

The University notes that reports of sexual misconduct made to the University's Police Department will be shared with the Title IX Coordinator. In turn, the Title IX Coordinator shares with the University's Police Department information regarding sexual misconduct cases to ensure compliance with the Clery Act and to maintain a safe campus environment.

Coordination with law enforcement. In cases where a complainant makes a simultaneous report to law enforcement, the University will coordinate with law enforcement, as needed, to ensure that law enforcement has a reasonable time to complete its evidence gathering. The University will promptly resume its investigation after a reasonable time.

Obtaining protective measures from law enforcement. In addition to the interim remedies specified below, a complainant may be able to obtain protective measures, such as civil protection orders through local courts. The University is not involved in such proceedings; however, information about interim remedies available through the University is provided below.

Considerations in filing a report with law enforcement. Individuals who experience sexual assault are encouraged to seek immediate medical attention. A complainant may wish to request a forensic examination from a Sexual Assault Nurse Examiner (SANE) at the University of Toledo Medical Center or other area hospitals. Complainants who choose to obtain a forensic examination should take a change of clothing and try not to shower, drink, eat, douche, brush teeth or hair, or change clothes prior to the exam as this may help preserve evidence in a criminal complaint.

(F) Interim measures

Interim measures are available to complainants who report alleged sexual misconduct. Interim measures will be coordinated by a Deputy Title IX Coordinator, who may consult with the Title IX Coordinator regarding appropriate interim measures. Interim measures may include, but are not limited to, "no contact" directives, changes to academic and living situations, as appropriate and counseling services. For employees, interim measures may include no contact directives, reassignment, leave, modification to the place or manner of performing one's position, or other actions. The University administers interim measures in a manner that minimizes the burden on the complainant, while taking into account due process considerations with regard to the respondent and others, as appropriate.

Respondents or others who participate in the investigation of a complaint under this policy may contact the Title IX Coordinator if they need assistance prior to the completion of the adjudicatory process.

(G) Complaint Investigation and Resolution Procedures

- (1) ***Standard of Review.*** The University uses the preponderance of the evidence or "more likely than not" standard in the investigation and resolution of complaints of sexual misconduct.

- (2) ***Title IX Coordinator's evaluation of the report.*** Within 7 days of receiving a report of alleged sexual misconduct, the Title IX Coordinator will determine the appropriate response to the report. If the complainant wishes to proceed with an investigation or an investigation is otherwise necessary, the Title IX Coordinator will assign the case to an appropriate Deputy Title IX Coordinator expeditiously, but no later than 7 days after receiving the report of alleged sexual misconduct. In certain circumstances, the Title IX Coordinator may appoint an external investigator. The Title IX Coordinator will document this step of the process in writing.
- (3) ***Deputy Title IX Coordinator's response.*** Within 7 days of the University's receipt of a report of alleged sexual misconduct, the Deputy Title IX Coordinator will contact the complainant and respondent to schedule in-person or telephonic interviews. Within this timeframe, the Deputy Title IX Coordinator will provide the parties with written information about the process, available resources, interim measures, and how to raise and resolve concerns about interim measures or conflicts of interest in the process. University-provided email will be the primary means of communication used, and complainants and respondents are advised to regularly check their University-provided email. The University will take appropriate action to address alleged sexual misconduct, including instances where a party does not respond to communication from the University. This may include moving forward with the disciplinary process if it does not receive a response from either party within a reasonable time period.
 - (a) As part of the investigation, the Deputy Title IX Coordinator will interview witnesses and review available evidence, as appropriate.
 - (b) The Deputy Title IX Coordinator's investigation generally will be concluded within 30 days after the complaint was received. This timeframe may be extended if circumstances warrant: such as during school breaks. The Deputy Title IX Coordinator will notify the parties of any delays and the reasons for the delays.
 - (c) At the conclusion of the investigation, the Deputy Title IX Coordinator will prepare a concise, written investigatory report. The complainant and respondent, will have simultaneous, timely notice of the outcome of the investigation. The report will be shared with the Title IX Coordinator, the adjudicators assigned to the case, and relevant University administrators. If there is insufficient evidence to support a finding that the conduct at issue was based on sex or of a sexual nature, the report will include that finding, and no appeal is permitted.
- (4) ***Adjudication/Resolution.***

The University generally will conclude the investigation and adjudication/resolution processes within 60 days of receiving a complaint of sexual misconduct.

- (a) ***Cases where the respondent is a student.*** The adjudicatory process set forth in the Student Code of Conduct, Policy 3364-30-04 applies. However, if at the conclusion of the investigation, if the respondent chooses to accept responsibility for the alleged violation, the parties will be offered the option to resolve the complaint administratively. If both parties agree to resolve the complaint administratively, the case will be referred to the Title IX Adjudication Panel for sanctioning. The parties will not provide testimony to the adjudicatory panel under this option and the sanctioning decision will be based on consideration of the investigatory report, the respondent's acceptance of responsibility, and other relevant factors. The sanctioning decision will be made within 60 days of the University's receipt of the complaint, at which time the parties will receive concurrent written notice of the outcome. In either case, information about the matter, including the findings and sanction(s), will be shared with the respondent's College to permit the College, department, or program to consider whether any standards particular to the College, department, or program are implicated, and to make any necessary determinations about the respondent's fitness for the particular program. This process occurs after the University's process explained in this policy, and may not modify the University's findings or sanctions, but only reach conclusions as to whether College, department, or program expectations require additional sanction. Although not part of the University's formal Title IX process, the complainant will be provided notice by the College, department, or program that additional discipline is being considered, will allow the complainant to provide information in a manner equivalent to how the respondent is permitted, and will receive notice of the outcome of that College, department, or program's process.
- (b) ***Cases where the respondent is an employee.*** The disciplinary process outlined in the applicable collective bargaining agreement or applicable policy will be followed, subject to (f) below.
- (c) ***Cases where the respondent is a third party.*** Within 14 days of the conclusion of the investigation, the Title IX Coordinator or designee will review the investigatory report and determine the appropriate outcome. Where the respondent is not a University student or employee, the range of sanctions available to the University may be limited. However, the University may impose sanctions such as restrictions on contact with the complainant and may provide remedies to the complainant (e.g., academic accommodations), as appropriate.

- (d) ***Cases where the respondent is both an employee and a student.*** The matter will first be handled as an employment matter. Findings and results of that process will be forwarded to the Office of Student Conduct and will be used to determine what Student Code of Conduct sanctions, if any, are to be imposed. The Office of Student Conduct's process will solely relate to sanctions. To the extent possible, information gathered by the University in the investigation and disciplinary process for employment will be used in the student process to avoid unduly burdening either complainant or respondent.
- (e) ***Written notice of the outcome.*** The complainant and respondent will receive concurrent written notice of the outcome of the adjudication or resolution process. Such notice will be provided within 5 days of the conclusion of the applicable process.
- (f) Regular employee disciplinary policies or procedures provide the procedures that will be followed for disciplinary matters, however all applicable Title IX requirements outlined in this section (G): ((1), (4) (d), and (5) through (12)) will be followed during any disciplinary process relating to allegations of sexual misconduct. Employee discipline will be pursued if the administrator with authority over the accused and the assigned Deputy Title IX Coordinator conclude that disciplinary action is necessary. Should a decision not to move forward with disciplinary action be reached, the complainant and respondent will be notified of that decision in writing by the assigned Deputy Title IX Coordinator.
- (5) ***Witnesses and evidence.*** The parties have an equal opportunity to present witnesses and evidence during the investigation and adjudication of sexual misconduct complaints. The sexual history of the complainant with anyone other than the respondent generally will not be considered.
- (6) ***Participation of advisors.*** The parties may each bring one advisor of each party's choice to meetings and hearings during this process. If either party's advisor is an attorney, the Title IX Coordinator or designee handling the meeting or hearing must be notified at least 24 hours prior to the meeting or hearing that the attorney advisor will attend, and the name of the attorney advisor. Advisors may be present during meetings and hearings but may not speak, interrupt, or participate in the process. Advisors who do not comply will be asked to leave. Advisors are expected to make themselves available on the dates and times that meetings and hearings are scheduled; meetings and hearings will not be rescheduled due to unavailability of any party's advisor. The parties and their advisors are not permitted to record, photograph, or audio record meetings or proceedings.
- (7) ***Advocates (for complainants) and advisors (for respondents) within the University community.*** The University has advocates and advisors who are available to assist complainants and respondents during sexual misconduct

investigations. To utilize an advocate or advisor, parties should contact the Title IX Coordinator.

- (8) ***Timeframes.*** The investigation and adjudication of the complaint generally will be completed within 60 days, absent extenuating circumstances. The Deputy Title IX Coordinator will provide the parties with updates regarding the status of the case at regular intervals.
- (9) ***Conflicts of interest and fairness of process.*** This procedure provides for the prompt, reliable, impartial investigation and adjudication of complaints of sexual misconduct. The parties will receive similar, timely access to information throughout the process. Any concerns regarding real or perceived conflicts of interest regarding the participation of anyone in the process should immediately be brought to the attention of the Title IX Coordinator or one of the Deputy Title IX Coordinators who have not been involved in the investigation at issue.
- (10) ***Mediation.*** Mediation will not be used in cases where sexual violence has been alleged, or in cases where the accused is in a position of authority over the accuser. In these cases, a complainant will not be required to work out an issue directly with a respondent, even on a voluntary basis.
- (11) ***Recordkeeping.*** The University maintains records related to sexual misconduct proceedings in accordance with federal and state law requirements.
- (12) ***Training.*** The Title IX Coordinator, Deputy Title IX Coordinators, adjudicators, and any administrators with responsibilities under this policy will receive training, on at least an annual basis.

(H) Sanctions and Remedies

The sanctions and remedies that may be imposed or available depend on the nature of the party's relationship to the University. Students found responsible for sexual misconduct can be subject to discipline as explained in the Student Code of Conduct, ranging from a written warning up to and including expulsion. Employees found to have committed sexual misconduct can be subject to discipline as explained in the applicable collective bargaining agreement, University policy, or state law, ranging from an oral or written reprimand up to and including termination.

The University provides remedies to individuals who experience sexual misconduct and the campus community, as appropriate. Remedies may include educational programming, changes to policies and procedures, counseling, and opportunities to change educational, work, or living situations.

(I) Appeal Process

Both the complainant and respondent will be given equitable appeal rights, consistent with applicable policy or collective bargaining agreements.

For students, the appeal process is set forth in the Student Code of Conduct.

For employees, the bases for appeal are set forth in the applicable collective bargaining agreement or policy. In cases involving a respondent who is an employee, a decision not to move forward with disciplinary action may be appealed by either party. The appeal must be made in writing, to the Title IX Coordinator or designee, within 3 days of the date of the written notification of the outcome. The Title IX Coordinator or designee will reach a final determination on the appeal and notify both the complainant and respondent of the final determination on whether to move forward with disciplinary action.

(J) Resources

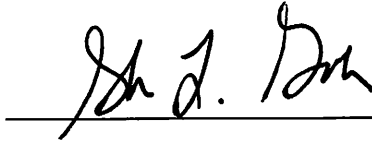
A list of University and local resources for those who have experienced sexual misconduct is found at <http://www.utoledo.edu/offices/oid/title-ix/index.html> and in Appendix A to this policy.

(K) Prevention and Awareness Programs

All members of the University community play a role in preventing sexual misconduct. The University is committed to delivering annual sexual misconduct primary prevention and awareness training to all new students and employees. These programs specifically address sexual assault, dating violence, domestic violence, stalking, and by-stander intervention among other topics. Information about the University's Sexual Assault Education and Prevention Program may be found at <http://www.utoledo.edu/studentaffairs/SAEPP/>.

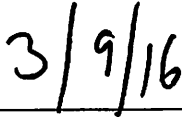
Online training for faculty and staff can be found at MyUT under the "Training and Development" tab.

Approved by:



Sharon L. Gaber, Ph.D.

President



Date

Review/Revision Completed by:

*Vice President and Chief Human
Resources Officer; Senior Vice
President for Student Affairs; Office of
Legal Affairs; Internal Audit and
Compliance*

Policies Superseded by This Policy:

- *Previous 3364-50-01 Sexual harassment and other forms of harassment, effective February 6, 2014*
- *Policy 3364-61-02, Sexual assault response/prevention, effective date July 25, 2012*

Initial effective date: December 1, 2007

Review/Revision Date: April 29, 2011; October 22, 2012; April 2, 2013; February 6, 2014; August 31, 2015

Next review date: August 31, 2018

Appendix A

Resources – The following is a list of some of the resources available following an incident of sexual misconduct. A more comprehensive list is available at:

<http://www.utoledo.edu/offices/oid/title-ix/index.html>.

A. On campus resources

1. The Sexual Assault Education and Prevention Program (SAEPP)

The University currently has trained sexual assault advocates. Advocates are available to meet with any student who has suffered sexual violence of any kind to provide support and to help the survivor explore available resources. An advocate is available 24 hours a day and 7 days a week to accompany a survivor for medical attention, to explain available resources, and to be supportive. <http://www.utoledo.edu/studentaffairs/saep/> **SAEPP, 2801 W. Bancroft Street, Rocket Hall Room 1810, Toledo, OH 43606-3390 419.530.3431 24 hours a day**

2. University Counseling Center

The University Counseling Center is a confidential reporting location for Title IX complaints. It provides free and confidential counseling services to enrolled students. Our counselors serve students presenting with a number of emotional concerns including the traumatic effects of sexual assault. Counselors are available Monday through Friday during regular office hours, as well as after-hours for emergency situations. Counselors can provide individual screening for services, on-going individual or group counseling, crisis intervention, and consultation services. http://www.utoledo.edu/studentaffairs/counseling/about_us.html

University Counseling Center, 2801 W. Bancroft Street, Rocket Hall Room 1810, Toledo, OH 43606-3390 419.530.2426

3. Employee Assistance Program

University of Toledo makes available to employees the IMPACT Employee Assistance Program (EAP), offering confidential support for employees and their household members, dependents living away from home, and parents & parents-in-law.

Professional phone support is available around-the-clock, on an unlimited basis, offering someone to talk to, 24 hours a day, 365 days a year. Face-to-face counseling is also available, with up to 5 sessions included per problem occurrence. <http://www.myimpactsolution.com/>
Employee Assistance Program 1.800.277.6007

B. Off campus confidential support

1. YWCA H.O.P.E. Center 24-hour Rape Crisis Hotline 419.241.7273

2. YWCA Battered Women's Shelter 419.241.7386**Appendix B****The University is making these definitions and terms available pursuant to the Violence Against Women Act Amendments to the Clery Act**

1. Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

2. Sex Offenses: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- Rape- The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape – Sexual intercourse with a person who is under the statutory age of consent.

3. Domestic Violence: A felony or misdemeanor crime of violence committed:

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

4. Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

- Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

5. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

For the purposes of this definition:

- 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

6. Programs to prevent dating violence, domestic violence, sexual assault, and stalking: Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that:

- Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels

Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees.

7. Awareness programs: Community-wide or audience specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration

8. Bystander intervention: Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking

Bystander intervention includes:

- Recognizing situations of potential harm

- Understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking actions to intervene

9. Ongoing prevention and awareness campaigns: Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution

10. Primary prevention programs: Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in a healthy and safe direction.

11. Risk reduction: Options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

12. Prompt, fair, and impartial proceeding: A proceeding that is completed within reasonably prompt timeframes designated by an institution's policy, including a process that allows for the extension of timeframes for good cause and with written notice to the accuser and the accused of the delay and the reason for the delay;

Conducted in a manner that:

- Is consistent with the institution's policies and transparent to the accuser and accused;
- Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
- Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
- Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused

13. Advisor: Any individual who provides the accuser or accused support, guidance, or advice

14. Proceeding: All activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

15. Result: Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result includes any sanctions imposed by the University.

Appendix C

The University is making the following state law definitions available pursuant to the Violence Against Women Act amendments to the Clery Act.

State law definitions as of March 2015

(State law definitions may be revised periodically. Please consult <http://codes.ohio.gov/orc/to> determine whether there have been updates to the definitions below)

Section 2907.03 of the Revised Code: 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 unaware that the act is being committed. (4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse. (5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person. (6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person. (7) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school. (8) The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution. (9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person. (10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes. (11) The other person is confined in a detention facility, and the offender is an employee of that detention facility. (12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric. (13) The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.

Ohio Rev. Code Ann. § 2907.03 (available at <http://codes.ohio.gov/orc/2907>).

Section 2907.02 of the Revised Code: 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 Rev. Code Ann. § 2907.02 (available at <http://codes.ohio.gov/orc/2907>).

Section 2903.11 of the Revised Code: 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.

Ohio Rev. Code Ann. § 2903.11 (available at <http://codes.ohio.gov/orc/2903.11>).

Section 3113.31 of the Revised Code: Domestic violence definitions - hearings.

(A) As used in this section: (1) "Domestic violence" means the occurrence of one or more of the following acts against a family or household member: (a) Attempting to cause or recklessly causing bodily injury; (b) Placing another person by the 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; (c) 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; (d) Committing a sexually oriented offense.

Ohio Rev. Code Ann. § 3113.31 (available at <http://codes.ohio.gov/orc/3113.31v2>).

Section 2903.211 of the Revised Code: 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 cause mental distress to

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 the other person's mental distress, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs. (2) No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section. (3) No person, with a sexual motivation, shall violate division (A)(1) or (2) of this section.

Ohio Rev. Code Ann. § 3113.31 (available at <http://codes.ohio.gov/orc/2903.211>).