



**OHIO**  
UNIVERSITY

## **Student Sexual Misconduct, Relationship Violence, and Stalking Process**

*(applies to investigations initiated on or after February 11, 2019)*

This process will be used to adjudicate alleged student violations of Ohio University Policy 03.004 as well as alleged violations of the *Student Code of Conduct*. This document describes the process for investigating and adjudicating reports of alleged sexual misconduct, relationship violence, and stalking that involve students or student organizations as the respondent. Per the Ohio University catalog, available here (<https://catalogs.ohio.edu/>), official University correspondence is sent to students through their University e-mail address. Therefore, formal correspondence sent to students engaged in this process will occur via e-mail.

This process provides for a prompt, fair, and equitable investigation and resolution of sexual misconduct allegations made against students.

### **A. Confidential Resources**

Confidential resources are those entities that are not required to disclose the details of incidents reported to them to University Equity and Civil Rights Compliance (ECRC) for further investigation. While the university strongly encourages formal reporting of sexual misconduct, relationship violence, and stalking, we also recognize that students impacted by these issues may wish to take advantage of health and support resources without disclosing the situation to the university. There are a number of confidential resources to which students may speak, whether or not they are participating in a formal university process. On campus, those resources are:

- Campus Care  
1st Floor Hudson Health Center  
740-593-1660  
<http://www.oucom.ohiou.edu/campuscare/services.htm>
- Counseling and Psychological Services  
3rd Floor Hudson Health Center  
740-593-1616 (24/7 Line)  
<http://www.ohio.edu/counseling/index.cfm>
- Survivor Advocacy Program  
Lindley Hall, 038  
740-597-7233 (24/7 Line)  
survivor.advocacy@ohio.edu  
<http://www.ohio.edu/survivor>

### **B. Definitions**

For the purposes of this process, the following definitions apply:

**Advisor** – Individual selected by either a complainant or respondent to assist them in preparation for and during any meetings or hearings related to this process. An advisor may assist the complainant and respondent by helping to prepare materials, draft questions, and confer with the complainant and respondent during meetings and hearings, as long as this does not unreasonably disrupt or delay the process. An advisor may be anyone of the student’s choosing, including an attorney. Advisors are not permitted to directly participate in the process (for example, they may not make statements or ask questions of participants).

**Complainant** – Person who was subject to alleged misconduct as described in Policy 03.004 and/or the *Student Code of Conduct*. There may be more than one complainant for an incident.

**Gatekeeper** – Entity responsible for determining if a matter fits within the scope of Policy 03.004 and should, therefore, be resolved by this process. University Equity and Civil Rights Compliance (ECRC) serves as the gatekeeper for this process.

**Hearing Authority** – Panel of two individuals chosen from the pool of trained investigators in ECRC and Community Standards and Student Responsibility (CSSR) who have not participated in the investigation of the matter at hand.

**Investigators** – Individuals who are chosen from a pool of trained investigators in ECRC and CSSR. Two investigators will be assigned and will conduct a prompt, thorough, and impartial investigation that includes conducting interviews and completing the investigative report.

**Preponderance of Evidence** – Standard of proof used by the hearing authority. Preponderance of evidence means that the statements and information presented in the matter must indicate to a reasonable person that it is more likely than not that the respondent committed a violation.

**Process Advisor** – Member of the university community who has been specifically trained to provide information to complainants or respondents regarding the process. This person does not actively participate in the process but can be present at meetings and hearings to provide support to the complainant or respondent. Process advisors cannot be a witness in the matter in question. A list of process advisors can be obtained by request from CSSR or ECRC.

**Referring Party** – Person who reported the alleged policy violation to the Office of Equity and Civil Rights Compliance.

**Respondent** – Student, student organization, or student group (*as defined by the Student Code of Conduct*) who is alleged to have committed a violation or violations of Policy 03.004 and/or the *Student Code of Conduct*. There may be more than one respondent for an incident.

**Sexual Misconduct** – See Policy 03.004: Sexual Misconduct, Relationship Violence, and Stalking (<http://www.ohio.edu/policy/03-004.html>)

**Support Person** – Any person chosen by either the complainant or the respondent to provide support to them throughout their interactions with ECRC and/or CSSR throughout this process. The complainant and respondent are each entitled to two support people at a time, but these do not have to be the same individuals throughout the process. Support people do not actively participate in the process, but can be present at meetings and hearings to provide support to the complainant or respondent. A support person cannot be a witness in the matter in question.

**Witness** – Person who is requested to participate in an investigation or a hearing because they may have information about the alleged misconduct. Names of potential witnesses may be supplied by the complainant, respondent, or others with knowledge of the matter. All witnesses requested to appear at a hearing will be considered university witnesses.

### **C. Report of Potential Violation**

Complainants may self-report incidents of sexual misconduct, relationship violence, or stalking directly to ECRC. Referrals or third-party notices of alleged sexual misconduct, relationship violence and stalking also come from a variety of sources, including but not limited to students, faculty, and staff members. Per Policy 03.004, immediately upon learning of potential sexual misconduct, any employee with a duty to report violations of this policy who receives a complaint of sexual misconduct, or who observes or learns of conduct that is reasonably believed to be in violation of this policy, is required to report the alleged conduct to University Equity and Civil Rights Compliance.

ECRC staff will then inform the Title IX coordinator of the report. ECRC and CSSR are also responsible for notifying the appropriate law enforcement agency if the report indicates that sexual violence and/or another felony may have been committed. While ECRC and CSSR are obligated to contact law enforcement, complainants are not required to speak with the police unless they so choose. ECRC will also work with the Ohio University Police Department to assess if a timely warning needs to be issued to the campus community in relation to the report. Complainants are encouraged to contact either the Ohio University Police Department or other appropriate law enforcement agency to file a report if they so choose. Staff members in ECRC and CSSR are available, if requested, to assist students in contacting the appropriate law enforcement agency.

Additionally, if any party involved in alleged non-consensual sexual contact or non-consensual sexual intercourse is a minor, University personnel will notify Job and Family Services or other appropriate agencies, as required by Ohio law. Further, ECRC will collect and share statistical information as required by the Clery Act.

### **D. Gatekeeping**

ECRC serves as the initial gatekeeper responsible for conducting the preliminary assessment to determine if there is enough information to initiate a formal investigation. This responsibility exists because ECRC serves as the university's Title IX compliance office and oversees Title IX grievance processes. If there is no reasonable cause to believe that Policy 03.004 has been violated, ECRC will notify appropriate parties and close the matter. Should additional information come forward at a later date, ECRC may re-open the matter. Should ECRC decide that the matter does not meet gatekeeping, they will notify the appropriate parties of available resources. ECRC may also refer the matter to CSSR for resolution under the student conduct process if the report contains other alleged violations of the *Student Code of Conduct*. If ECRC determines there is reasonable cause to initiate an investigation, that investigation will be conducted in accordance with Section O below.

Gatekeeping is ongoing and will continue to occur once a matter has moved to investigation and may be re-evaluated as new information becomes available. There may be instances in which the information collected in the course of the investigation does not meet the elements of the sexual misconduct violation of policy 03.004. In situations where this becomes the case, the investigative team will make a written recommendation to the Title IX Coordinator to close the matter related to the sexual misconduct process. The Title IX Coordinator will review the recommendation and decide which process is best suited to resolve the issue. If the Title IX Coordinator agrees to close the issue in the sexual misconduct process,

the investigative team will issue a letter to both the complainant and respondent with that information and the rationale for that decision, with a copy to the Title IX Coordinator and the director of Community Standards and Student Responsibility. If there are other allegations that could constitute violations of the *Student Code of Conduct*, the issues will be referred to CSSR for review.

#### **E. Concurrent Proceedings External to the University**

The Sexual Misconduct, Relationship Violence, and Stalking Process may be initiated when a student is alleged to have engaged in conduct that violates university policy, including when the alleged conduct may also potentially violate criminal or civil law. The university may initiate this process regardless of any external criminal, civil, or administrative proceeding. This process may be carried out prior to, simultaneously with, or following those proceedings. Determinations made and sanctions imposed under this process will not be subject to change because criminal charges arising out of the same facts were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

Records generated as a result of this process are considered educational records and governed by the Family Educational Rights and Privacy Act (FERPA), and are therefore subject to release under the order of a lawful subpoena.

#### **F. Concurrent Proceedings Internal to the University**

The Sexual Misconduct, Relationship Violence, and Stalking Process may be initiated when a student is alleged to have engaged in conduct that violates university policy 03.004 and the Student Code of Conduct. In addition to the investigation and resolution process described in this document, if the student is also employed on campus as a faculty or staff member, other processes may apply. The Title IX Coordinator, in consultation with other individuals as appropriate, will determine which process will take precedence or if the processes (or portions thereof) will run concurrently. For example, a student may be placed on leave from their employee position while the investigation takes place. In making this determination, the Title IX Coordinator will consider a number of factors, including but not limited to:

- The primary relationship of the respondent to the university
- The role the respondent was in at the time the incident occurred
- The context of the incident, including the environment in which the misconduct is alleged to have occurred

In order to minimize the burden on all involved parties and to resolve the matter in a timely manner, the investigative report and final outcome from the primary process may be shared, as necessary and appropriate, with the decision makers in other processes.

#### **G. Assessment of Interim Measures**

All reports will be reviewed to determine if interim measures are necessary. Interim measures may be implemented even if a formal investigation is unable to proceed. Interim measures may be made or requested at any point after a report is received and may include but are not limited to:

- Administrative directives for no contact
- Temporary or permanent re-assignment of housing
- Restriction of access to particular areas of campus
- Altered academic arrangements (moving an individual from class, completing work online, etc.)
- Designated “safe hours” of use for communal spaces on campus (e.g., the Ping Center and/or dining halls)

The university reserves the right to determine the most appropriate course of action in making these arrangements. In most cases, ECRC and CSSR will make decisions on interim measures. In situations where a residential move is required due to allegations of sexual misconduct, relationship violence, or stalking, professional staff in the Department of Housing and Residence Life may initiate an immediate residential move and/or restrict access to residence halls. They may also issue temporary administrative directives for no contact under the same circumstances. Housing and Residence Life will notify ECRC and CSSR in writing of any interim measures they initiate as soon as possible but no later than the next business day. All interim measures described above will be documented in writing. Both respondent and complainant are eligible to receive interim measures as requested and deemed appropriate. Every attempt will be made to minimize disruption to both parties when interim measures are enacted.

Additionally, ECRC and CSSR may jointly assess reports as they are received to determine if there is a need to recommend an interim suspension of the respondent. That recommendation will then be presented to the Dean of Students (or designee) for consideration. If the decision is made to proceed with an interim suspension, the respondent will be notified in writing by the Dean of Students (or designee) as per the process outlined in the *Student Code of Conduct*.

#### **H. Complainant Options, Rights, and Resources Meeting**

Staff from ECRC will contact the complainant as soon as possible upon receipt of a report of alleged sexual misconduct, relationship violence, or stalking to set up an options, rights, and resources meeting. The following will be covered:

- Medical, mental health, law enforcement, and other resources available both on campus and in the surrounding community
- Possible interim measures (see Section G above)
- The obligation of the university to investigate every report of alleged sexual misconduct, relationship violence, and stalking under federal and state law, Ohio University policy, and out of concern for the safety of our campus community
- The obligation of ECRC and CSSR to notify the appropriate law enforcement agency if the report indicates that sexual violence and/or another felony may have been committed. While ECRC and CSSR are obligated to contact law enforcement, complainants are not required to speak with the police unless they so choose.
- The process for investigating and resolving alleged violations of sexual misconduct, relationship violence, and stalking
- The rights of the complainant and respondent (see Section M below)
- The option to request confidentiality and the process by which that request will be evaluated (see Section I below)

ECRC may also verify the information received in the initial report with the complainant. Should the complainant not respond to ECRC's initial attempt to contact them, ECRC will make two additional attempts. Should the complainant not respond at all, ECRC will send the complainant written acknowledgment of their non-participation and notice of the next steps in the process. Should the complainant later choose to participate, they may re-engage at any point before the process is concluded.

#### **I. Request for Confidentiality**

Complainants may request that their name not be used as part of any investigation that the university may initiate. Confidentiality will be discussed during the initial options, rights, and resources meeting. Referring parties may share that a complainant wishes to request confidentiality, but it will not be considered a formal request until made, in writing, by the complainant to ECRC. Complainants requesting

confidentiality need to be aware that the inability to use a complainant's name can significantly impede the university's ability to investigate and, in most cases, the university will be unable to investigate the matter or resolve it through student conduct or other university processes. Additionally, confidentiality can also impact the interim measures the university is able to put in place.

Should a complainant wish to request confidentiality, that request will be reviewed jointly by ECRC and CSSR. The university will make every effort to honor a complainant's request for confidentiality; however, there are times when that request will not be able to be granted. The following factors will be taken into account when considering a complainant's request for confidentiality:

- The reported use of force during the commission of an alleged violation of sexual misconduct, relationship violence, or stalking
- The reported use of a weapon during the commission of an alleged violation of sexual misconduct, relationship violence, or stalking
- Significant physical injury resulting from an alleged violation of sexual misconduct, relationship violence, or stalking
- The involvement of multiple respondents in the commission of an alleged violation of sexual misconduct, relationship violence, or stalking
- Prior allegations (substantiated or not) of sexual misconduct, relationship violence, or stalking made against the respondent
- Other relevant factors, including but not limited to:
  - The frequency and severity of the alleged behavior
  - The age of the complainant (for example, if the complainant is a minor)
  - Any position of trust a respondent may hold due to the nature of their employment or other relevant status with the university

The complainant will be notified in writing of the outcome of their request for confidentiality. In situations where confidentiality has been granted, if another report is made regarding the same alleged perpetrator, the request for confidentiality may be reconsidered in the interest of the safety of the campus community. In those instances, ECRC and/or CSSR will attempt to contact the complainant to discuss the need to revoke confidentiality. If the complainant is unable to be reached or does not respond after two attempts, ECRC and/or CSSR will notify the complainant in writing regarding the revocation of confidentiality before proceeding to use the complainant's name.

If no request for confidentiality is made, the investigation will proceed using the complainant's name.

#### **J. Respondent Notice, Rights, and Resources Meeting**

After sufficient information regarding the allegations has been gathered, staff from ECRC will contact the respondent to inform them that a report has been received alleging a violation of Ohio University Policy 03.004 and the Student Code of Conduct. The respondent will be sent correspondence informing them of the alleged violation(s) and requesting their presence at a meeting. At the initial meeting the respondent will not be asked any questions about the allegations. ECRC staff will discuss the following:

- The obligation of the university to investigate every report of alleged sexual misconduct, relationship violence, and stalking under federal and state law, Ohio University policy, and of concern for the safety of our campus community.
- The process for investigating and resolving alleged violations of sexual misconduct, relationship violence, and stalking.
- The rights of the complainant and the respondent (see Section M).
- The details of the allegation as well as the name of the complainant.

- Medical, mental health, law enforcement, and other resources available both on campus and in the surrounding community
- Possible interim measures (see Section G above)

Should the respondent not respond to the initial attempt to meet, ECRC will make two additional attempts. If the respondent does not respond at all, ECRC will send the respondent written acknowledgment of their non-participation and notice of the next steps in the process. The respondent will continue to be notified throughout the investigation and may participate at any point in the process prior to its conclusion.

After the initial meeting staff from ECRC will provide the respondent follow up communication with the summary of the allegation(s) as well as notice of the official charges, as of the date of the letter. The respondent will then be notified of a meeting date and time with the investigators to discuss the matter in full detail (see Section O).

It is important to note that the charges may change as the investigation progresses and more information is gathered. Should that occur, the respondent will be notified of any changes (see Section O).

#### **K. Amnesty for Alcohol and Drugs**

In an effort to encourage reporting of alleged sexual misconduct, relationship violence, and stalking violations, students will not be subject to referrals for action under the *Student Code of Conduct* if they engaged in the unlawful or prohibited personal use of alcohol or drugs during the incident when the alleged violation occurred. Amnesty applies only to the personal use of alcohol or drugs during the incident in question and does not extend to other potential violations of the *Student Code of Conduct* that may have been committed. Amnesty does not apply to matters in which drugs or alcohol are used to facilitate a violation of Ohio University Policy 03.004 and/or the *Student Code of Conduct*.

#### **L. Related Student Code of Conduct Allegations**

In situations where the sexual misconduct matter has moved to a formal investigation, any additional *Student Code of Conduct* allegations connected to the sexual misconduct that arise during the investigation may be adjudicated within the sexual misconduct process. This would also include any student conduct charges resulting from allegations of violation of [University Policy 40.001: Equal Employment and Educational Opportunity](#). In these instances, CSSR staff will review and determine the appropriate charges under the *Student Code of Conduct*. Two examples of allegations that will be resolved in this manner are allegations that the respondent used alcohol or drugs to facilitate sexual misconduct and possession or use of a weapon in the course of sexual misconduct. These are alleged *Student Code of Conduct* charges, and the sanctions for those related charges, if substantiated and regardless of whether the sexual misconduct charge is substantiated, would be determined in the hearing.

#### **M. Rights of the Complainant and Respondent**

Respondents have the right to be, and will be, presumed not responsible for a violation of prohibited conduct until found in violation by a preponderance of the evidence.

Additionally, both complainants and respondents have the right to:

- Have an advisor, a process advisor, and up to two support people, present during any meetings or hearings that may occur as part of this process

- Have legal counsel serve as an advisor in this process. The role of an advisor is outlined in Section B above
- Request reasonable accommodations due to disability (see Section N below)
- Have their matter handled in a forthright and timely manner
- Receive advance notice of any meetings in which they are entitled to participate and the purpose of those meetings
- Provide statements, evidence, and information as part of the investigation
- Know the names of all witnesses that are contacted as a part of the investigation
- Know the specific charges being made under Policy 03.004 and the *Student Code of Conduct* and the range of potential sanctions should a violation be found
- A copy of the redacted pre-hearing investigative report in order to prepare for the hearing
- Inspect information compiled by the investigators for the purpose of the sexual misconduct resolution process in order to prepare for the hearing
- Speak or not speak as a part of the process
- Question witnesses that participate in the hearing
- Rebut written materials presented in a hearing
- File a written appeal to the Vice President for Student Affairs (or designee)

#### **N. Reasonable Accommodation for Students with Disabilities**

Any student with a disability involved in this process has the right to request reasonable accommodation in order to ensure their full and equal participation in this process. Students wishing to request reasonable accommodations should make those requests directly to the office of Student Accessibility Services (SAS). Students do not have to disclose information about the complaint or charge to SAS to request reasonable accommodation except to the extent that it may assist in the determination of reasonable accommodations. Accommodations are determined on an individual basis by SAS staff and implemented in consultation with CSSR and ECRC. Examples of reasonable accommodation include but are not limited to sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, or assistance with transcribing questions during interviews or hearings. Students are responsible for requesting accommodations in a timely manner; failure to do so may result in a delay in the process.

- Student Accessibility Services  
Baker University Center, 348  
740-593-2620  
[disabilities@ohio.edu](mailto:disabilities@ohio.edu)  
<http://www.ohio.edu/uc/sas>

#### **O. Investigation**

Once ECRC has determined that a matter will proceed, an investigation will be conducted by two investigators from the investigator pool. The team of two investigators will conduct a prompt, thorough, and impartial investigation. Every effort will be made for both investigators to be present at all interviews. The investigators will contact all relevant parties to set up a time to meet. Should the relevant party not respond to the initial attempt to meet, the investigators will make at least one additional attempt before moving forward in the process.

Investigations will consist of interviews with the complainant, respondent, and relevant witnesses. Witness names may be supplied by either or both the complainant and respondent. If unclear, Investigators may request that the complainant and respondent explain how witnesses are related to a situation and what information they believe the person can provide to investigators. Additionally, the

investigative team may determine through other means that they need to speak with someone and seek that person out independently. Witness interviews will be limited in scope to the relevant facts of the matter. Character witnesses and witnesses without relevant information will not be interviewed. The investigative team may request additional information and evidence from witnesses. The investigative team may need to conduct multiple interviews in order to follow up or clarify information provided by others. Student witnesses, while not required to speak, are required to attend scheduled interviews and meetings. Should they fail to attend, they may be charged under the *Student Code of Conduct* for failure to comply.

At times, investigations may uncover additional information that warrants the removal or addition of charges against the respondent or that indicates that another individual (or individuals), including the complainant, should be charged with a violation of [Ohio University Policy 03.004](#) and/or the Student Code of Conduct. Should that occur, the parties will be notified of any charges that are to be dismissed or added. In the case of new charges, the investigators will request to meet with the party being charged to review the new charges and the specific allegations from which they stem. That meeting will be followed with a letter containing the summary (or updated summary) of allegations and notice of all current charges. An interview will be scheduled in order to discuss the new allegations and charges in more detail. As before, should the party not respond to the request to meet after two attempts, the process will continue to move forward.

At the conclusion of the investigation, the investigative team will write an investigative report. The investigative report will include the following:

- The names of the investigative team
- Applicable policies to the matter
- A list of involved parties
- A brief history of the investigation
- Overview of the allegations
- The violations that were alleged to have occurred
- Summaries of the interviews the investigative team conducted
- Other information as deemed relevant by the investigators

Both investigators will sign the report. This investigative report will be made available to both the complainant and the respondent.

#### **P. Delay in Process**

It is the goal of this process to provide a prompt, fair, and equitable process for all parties involved. Every effort will be made to investigate and resolve allegations as quickly as possible. However, in some circumstances, there may be a necessary delay in the process in order to appropriately address the unique circumstances involved in each case. In instances where a delay becomes necessary, the parties will be notified. Additionally, the parties can request an update on the status of their matter at any point.

#### **Q. Pre-Hearing Meetings**

Once the investigative report is complete, the investigative team will schedule separate meetings with both the complainant and the respondent. In that meeting, the investigative team will go over the investigative report with each party. At that time, both the complainant and respondent will be given access to the investigative report and any additional information or materials that were considered as part of the investigation. Additionally, both the complainant and respondent will be provided with a redacted copy of the investigative report. During the pre-hearing meeting, both the complainant and

respondent will be informed as to when and where the hearing on this matter is scheduled to take place. Following the pre-hearing meeting, each party will be sent a letter confirming the date and time and containing information relevant to the hearing. Should the complainant and/or respondent not attend their scheduled pre-hearing meeting, they will be informed of the date of the hearing in writing.

Options for the hearing will also be discussed. Both the complainant and respondent may participate in the hearing in a number of ways. They may participate from another location by video conference, they may attend in person but request to be screened off from the other party, or they may attend the hearing without any alternative arrangements in place. If either party does not attend the hearing, it will be conducted as scheduled in that person's absence.

The respondent will have three business days from the date of the pre-hearing meeting to decide if they would like to accept responsibility for the charge(s). If the respondent accepts responsibility for the charge(s), the hearing will not be held, and the investigative team will notify the complainant that the respondent has accepted responsibility and the hearing has been canceled. Any statement the respondent includes with their acceptance of responsibility will be shared with the complainant. The complainant will have an opportunity to provide an impact statement to be used in determining sanctioning. Any impact statement the complainant may submit will also be shared with the respondent. The deadline for the impact statement is three business days from when the complainant is notified that the respondent has accepted responsibility for the charge. The investigative team will then give the report, all documents and information collected during the investigation, and the impact statement (if any) to the hearing authority. The hearing authority will review those materials, determine an appropriate sanction, and notify the complainant and respondent of their decision in writing, with a copy to the Title IX coordinator. Both the complainant and the respondent have the right to appeal as outlined in Section T below.

## **R. Hearing**

A hearing will be conducted for all matters that are not resolved by the respondent accepting responsibility after the pre-hearing meeting. At the discretion of the Title IX Coordinator, in consultation with CSSR, matters involving multiple complainants or respondents may be heard in the same hearing. Additionally, matters where there is a cross-complaint (e.g., both parties accuse each other of violating Policy 03.004 and the *Student Code of Conduct*), may also be heard in the same hearing. The hearing authority will use the preponderance of the evidence standard in making their decision as to whether or not university policy was violated. Both members of the hearing authority must agree that the standard of proof has been met. If the members of the hearing authority disagree, there will be no finding of violation.

All hearings under this process will be closed to the public. At designated times during the hearing, the complainant and respondent may ask relevant questions directly of each other and witnesses, or they may choose to submit questions in writing for the hearing authority to ask on their behalf. The hearing authority will determine if questions are relevant. For example, questions introducing the sexual history of either party with anyone besides each other would typically be deemed irrelevant and would not be permitted. In addition, it is expected that all parties will ask and answer questions in a manner that maintains civility throughout the proceeding.

Initial questions the complainant and respondent would like to ask the other party or any witnesses should be submitted in writing to the investigators by no later than 5:00 PM two business days prior to the hearing. This will allow the hearing authority the opportunity to review the initial questions and inform the parties prior to the beginning of the hearing if any of the questions they intend to ask would

not be permitted. The parties may then choose to reword the question or provide supporting information as to the relevance of the question for further consideration by the hearing authority.

In addition to these reviewed initial questions, each party may ask additional questions that arise during the hearing or submit them in writing for the hearing authority to ask on their behalf. The hearing authority will determine if questions asked by the parties during the hearing are relevant. If the hearing authority determines that a question is not relevant, the party asking the question may choose to reword the question or provide supporting information as to the relevance of the question for further consideration by the hearing authority. The hearing authority also reserves the right to disallow or require the parties to reword questions that have already been asked and answered.

No later than two business days before a scheduled hearing, the complainant and respondent should provide the investigative team with the following:

- Any request for alternate arrangements they would like made for their participation in the hearing. This includes requests to participate remotely via video conference or for a divider to be present in the room. While late requests for alternative arrangements will be considered, they cannot be guaranteed.
- Any additional information or evidence they would like to be considered at the hearing. While all information should have been submitted prior to the pre-hearing meeting, occasionally some information presents itself at a later date. In order for it to be considered at a hearing, it should be submitted no later than two business days prior to the hearing. Additionally, if determined to be necessary based on the information submitted, ECRC/CSSR may, at their discretion, reschedule the hearing.
- The names (or pseudonyms as listed in the investigative report) of any witnesses they wish to have questioned during the hearing. Witnesses who are not named by either party or the hearing authority will not be scheduled to participate during the hearing but will be asked to be available should the need to ask a question arise.
- Initial questions they would like to ask the other party or any witnesses.

The following is a guide as to how the hearing will be conducted:

- The hearing authority will begin the hearing by discussing expectations for the hearing.
- The hearing authority will give a brief overview of the nature of the allegations.
- The hearing authority may ask the investigative team clarifying questions regarding the investigation at any point during the hearing.
- The complainant will be given an opportunity to respond to the investigative report.
- The hearing authority will have an opportunity to ask complainant questions
- The respondent will be given the opportunity to ask relevant questions of the complainant as described above.
- The respondent will be given an opportunity to respond to the investigative report.
- The hearing authority will have an opportunity to ask respondent questions.
- The complainant will be given the opportunity to ask relevant questions of the respondent as described above.
- The hearing authority will call witnesses and ask them questions.
- The complainant will be given the opportunity to ask relevant questions of witnesses as described above.
- The respondent will be given the opportunity to ask relevant questions of the witnesses as described above.
- The complainant will be given the opportunity to make a summary statement, including an impact statement if any, and any requested sanctioning considerations.

- The respondent will be given the opportunity to make a summary statement, including an impact statement if any, and any requested sanctioning considerations.

The hearing authority reserves the right to ask questions of anyone at the hearing at any time. Additionally, the hearing authority reserves the right to recess the hearing at any point and reconvene at a later time or date, should circumstances warrant.

At the end of the hearing, the hearing panel will go into closed session to deliberate on findings and, if applicable, sanctions. The standard of proof to make a decision on findings is a preponderance of evidence as defined in Section B above. Should any individual – complainant, respondent, or witness - choose not to participate in the hearing, statements provided by that individual as a part of the investigation may not be considered by the hearing authority in their deliberations.

Both parties will receive a formal written notice of the outcome of the hearing within five business days of the conclusion of the hearing, with a copy to the Title IX Coordinator. The finding of violation or not in violation will be given, along with a rationale for why the decision was made. If there is a finding of violation, the sanction will also be given, along with a rationale as to why that sanction was chosen. Sanctions, if any, will be determined in accordance with the sanctioning guidelines for sexual misconduct maintained by the Office of Community Standards and Student Responsibility.

#### **S. Sanctioning**

Students, student organizations, and student groups of Ohio University are responsible for abiding by all Ohio University policies. When a respondent is found in violation of Ohio University Policy 03.004 or Prohibited Conduct as defined by the *Student Code of Conduct*, appropriate disciplinary sanctions will be imposed. Sanctions are defined in Part F of the *Student Code of Conduct*.

CSSR is responsible for monitoring completion and compliance with all sanctions. A student suspended via this process, who has complied with all components of their sanctions and completed the re-enrollment requirements, will generally be permitted to re-enroll.

#### **T. Appeal**

Both the complainant and the respondent will have five business days from the written notification of the decision to appeal. Both parties have the right to appeal on the following grounds:

- Inappropriate sanction (*cases of clear abuse of discretion by the hearing authority*);
- A procedural defect occurred that significantly impacted the outcome of the hearing; and/or
- Discovery of new and significant information that could have affected the outcome of the hearing and that was not known or could not reasonably have been discovered and/or presented at the time of the hearing.

If either party submits an appeal, that appeal will be shared with the other party who will then have five business days to write a rebuttal. At their discretion, and for cause, the vice president for student affairs or designee may elect to extend the deadline for appeals and/or rebuttals. Should this occur, both parties will be notified of the new deadline. The appeals and rebuttals will be submitted to CSSR, who will forward them with the case file, to the vice president for student affairs or designee. Within two weeks of receiving the appeal(s) and rebuttal(s), the vice president for student affairs or designee will make a decision on the appeal in consultation with the Title IX coordinator or designee. If necessary, the vice president for student affairs or designee may take additional time to fully consider the appeal and rebuttal. Should this occur, both parties will be notified. The vice president or designee may uphold the decision, alter the

sanction, order a new hearing, or remand the matter to the original hearing authority as appropriate. The appeal process is not a re-hearing on the matter. It is a closed process and is limited to the review of written documents and the case file.

**U. Notice of Final Determination**

If there is no appeal, the hearing chair will issue a notice of final determination to both the complainant and respondent once the appeal period has passed with a copy to the Title IX coordinator. If there is an appeal, the vice president for student affairs will issue a letter stating the outcome of the appeal. The letter will be sent to both the complainant and respondent with a copy to the Title IX coordinator and the director of CSSR. Unless a new hearing is granted, the letter from the vice president for student affairs is considered the notice of final determination.

**V. Process Review**

The offices of Community Standards and Student Responsibility, Legal Affairs, and Equity and Civil Rights Compliance will review this process periodically to assess the effectiveness and continued compliance. Any changes will be presented to the Review and Standards Committee.