



OHIO  
UNIVERSITY

**Sexual Harassment and Other Sexual Misconduct Grievance Process**  
*(applies to investigations initiated on or after August 14, 2020)*

This process will be used to adjudicate alleged violations of Ohio University Policy 03.004, which provides the rationale, basis, scope, and jurisdiction of the policy, as well as, relevant definitions. Further, Policy 03.004 details behaviors prohibited by the policy; gives information about reporting incidents of sexual harassment, other sexual misconduct, and retaliation; and provides other important information regarding Ohio University's response to these prohibited behaviors. Ohio University Policy 03.004 may be found at <https://www.ohio.edu/policy/03-004>.

This Sexual Harassment and Other Sexual Misconduct Grievance Process document describes the process for investigating and adjudicating reports of alleged sexual harassment, other sexual misconduct, and retaliation. This process provides for a prompt, fair, and impartial investigation and resolution of allegations made against students, student organizations and groups, faculty members, administrators, staff members, and trustees and officers of Ohio University. The Title IX Coordinator and the staff in University Equity and Civil Rights Compliance (ECRC) are responsible for the management and implementation of this process.

**1. Definitions**

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

**Advisor** – A person chosen by a party (the complainant or respondent) to accompany the party to meetings related to the grievance process, to advise the party on that process, and to question the other party and witnesses at the hearing, if any. A party may have one advisor with them at meetings, interviews, and the hearing, if any, although the advisor does not have to be the same person at each.

The advisor may assist the party by helping to prepare materials, draft questions, and confer with the party during meetings and hearings, as long as this does not unreasonably disrupt or delay the process. The advisor also represents the party by asking questions of the other party and witnesses at the hearing; however, the advisor may not make statements on behalf of the party. The advisor may be anyone of the student's choosing, including an attorney. If a party does not have an advisor to question the other party and witnesses at the hearing, one will be appointed to do so by the institution. See Appendix B for additional information regarding advisors.

**Appeal Officer** – Those who have decision-making authority when dismissals under Title IX or findings resulting from a hearing within the grievance process are appealed by one or more of the parties.

**Business Day** – Weekdays (Monday-Friday) when Ohio University offices are open for normal operations.

**Calendar Day** – Every day on the calendar, including weekends and holidays.

**Complainant** – An individual who is alleged to be the victim of conduct that could constitute sexual harassment, other sexual misconduct, or retaliation under University Policy 03.004. There may be more than one complainant for an incident.

**Education Program or Activity** – Locations, events, or circumstances, including employment, where the University exercises substantial control over both the respondent and the context in which sexual harassment occurs and includes any building owned or controlled by a student organization that is officially recognized by the University.

**Employee** – A person who performs work for the University and is paid for that work. For purposes of University Policy 03.004, employees include paid faculty, administrators, staff, graduate research and teaching assistants, and all student employees.

**Final Determination** – The final outcome of the Sexual Harassment and Other Sexual Misconduct Grievance Process.

**Finding** – A conclusion by the standard of proof that the alleged conduct did or did not violate policy.

**Formal Complaint** – A document submitted by a complainant or signed by the Title IX Coordinator alleging behavior prohibited by University Policy 03.004 (sexual harassment, other sexual misconduct, or retaliation) against a respondent and requesting that the University investigate the allegation.

**Grievance Process** – A method of resolution utilized to address allegations of sexual harassment, other sexual misconduct, and retaliation as defined by University Policy 03.004: Sexual Harassment and Other Sexual Misconduct.

**Grievance Process Pool** – Investigators, hearing panelists, appeal officers, and advisors who may perform any or all of these roles, though not at the same time or with respect to the same case.

**Hearing Panelist** – Those who have decision-making and sanctioning authority when allegations proceed to a hearing within the grievance process. Three hearing panelists will be chosen from the grievance process pool to serve on the panel for each hearing.

**Investigator** – The person or persons charged with gathering information about an alleged violation of University Policy 03.004 and compiling this information into an investigation report and file of directly-related evidence. Two investigators will be assigned to each case and will conduct a prompt, thorough, and impartial investigation.

**Notice** – When an employee, student, or third-party informs the Title IX Coordinator or any other official with authority of an alleged incident of sexual harassment, other sexual misconduct, or retaliation.

**Parties** – The complainant(s) and respondent(s) in a matter, collectively.

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

**Related Evidence** – Evidence directly connected to a formal complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon in the investigation report.

**Relevant Evidence** – Evidence that tends to prove or disprove an issue in a formal complaint.

**Report** – Information provided to the Title IX Coordinator indicating that sexual harassment, other sexual misconduct, or retaliation may have occurred.

**Remedies** – Post-finding actions directed to the complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's education program or activities, including employment.

**Respondent** – An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, other sexual misconduct, or retaliation under University Policy 03.004. Student organizations or groups may also be respondents in this process and will be represented by the president, director, or other organizational or group leader. There may be more than one respondent for an incident. It is presumed that a respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

**Sanction** – A consequence imposed by the University on a respondent who is found to have violated University Policy 03.004: Sexual Harassment and Other Sexual Misconduct.

**Support Person** – A person chosen by a party (the complainant or respondent) to provide support to them at meetings and interviews with investigators and other ECRC staff. The parties may bring up to two support people at a time with them to meetings and interviews, in addition to the party's advisor. These support people do not have to be the same people every time. Support people do not actively participate in the process, but can be present at meetings and interviews to provide support to the party. Support people do not attend the hearing, if any, although the party may be accompanied at the hearing by an advisor of their choice. A support person cannot be a witness in the matter in question.

**Supportive Measures** – Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or to deter sexual harassment, other sexual misconduct, and retaliation.

**Title IX Coordinator** – The official designated by Ohio University to ensure compliance with Title IX and to oversee implementation of University Policy 03.004. References to the Title IX Coordinator throughout this process may also encompass a designee of the Coordinator for specific tasks.

**Witness** – Person who is requested to participate in the grievance process because they may have information about the alleged violation. Names of potential witnesses may be supplied by the complainant, respondent, or others with knowledge of the matter. All witnesses are considered to be witnesses called by the University.

## **2. Reports of Potential Violations**

Reports of sexual harassment, other sexual misconduct, or retaliation may be submitted by the complainant, or a third party may file a report on behalf of a person whom they believe has been adversely affected by conduct prohibited by this policy. Per Ohio University Policy 03.004, any employee with a duty to report must immediately report violations of this policy to the Title IX Coordinator if they receive a complaint of a violation or observe or learn of conduct that is reasonably believed to be in violation of this policy.

Reports may be submitted online using the Sexual Harassment and Other Sexual Misconduct Reporting Form by clicking on Report Sexual Misconduct at <https://www.ohio.edu/equity-civil-rights>. Reports submitted through this on-line form are routed immediately to the Title IX Coordinator.

Reports may also be filed with the Title IX Coordinator by mail, phone, or email. A report may be submitted at any time (including during non-business hours) using the contact information below. Reports may also be made in person at the ECRC office on business days when a staff member is available.

Kerri Griffin  
Director of Equity and Civil Rights Compliance and Title IX Coordinator  
006 Lindley Hall  
Ohio University  
Athens, OH 45701  
740-593-9140 (phone)  
equity@ohio.edu or titleIX@ohio.edu

Anonymous reports may be submitted, and if the report contains information about conduct that would constitute a violation of this policy, ECRC staff will attempt to address the reported concerns; however, their ability to investigate or resolve anonymous complaints will likely be limited. Further, ECRC tries to provide supportive measures to all complainants, which is impossible with an anonymous report.

If a complainant is identified in the report, ECRC will attempt to contact the complainant to offer supportive measures and to ensure the complainant knows all of the options available to them, including making a police report and submitting a formal complaint, if applicable and desired.

Reporting carries no obligation for complainants to submit a formal complaint, and Ohio University respects complainants' wishes regarding formal action unless there is a compelling threat to health or safety.

Under Ohio law, ECRC is required to notify the appropriate law enforcement agency if the report indicates that sexual violence and/or another felony may have been committed. While ECRC is obligated to contact law enforcement, complainants are not required to speak with law enforcement officers. 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 make a report to law enforcement authorities, even if they decide not to make a report to the Title IX Coordinator. Staff members in ECRC are available to assist students in contacting the appropriate law enforcement agency.

Additionally, if any party involved in alleged sexual misconduct 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 de-identified statistical information as required by the Clery Act.

### **3. Confidential Resources**

Certain campus and local resources may maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediate threat or danger, in cases of abuse of certain populations (e.g., minors), or when required to disclose by law or court order. These resources may offer options and resources without any obligation to inform a campus official or law enforcement authorities.

- Ohio University confidential resources include:
  - Licensed professionals and staff at Counseling and Psychological Services,
  - Healthcare providers and staff at Campus Care,
  - Advocates at the Survivor Advocacy Program, and
  - Licensed professional counselors available through the Employee Assistance Program.
- Off campus confidential resources include:
  - Licensed professional counselors and other medical providers,
  - Local rape crisis counselors,
  - Domestic violence resources,
  - Local or state assistance agencies,
  - Clergy/Chaplains, and
  - Attorneys.

Information regarding support resources, many of which are confidential, may be found on the Resources page on the ECRC website ([www.ohio.edu/equity-civil-rights](http://www.ohio.edu/equity-civil-rights)).

#### **4. Reasonable Accommodation for Persons with Disabilities**

Any persons living with a disability who are involved in the Sexual Harassment and Other Sexual Misconduct Grievance Process have the right to request reasonable accommodation in order to ensure their full and equal participation. Students should make requests to the Office of Student Accessibility Services (SAS) and employees should contact the Office for University Accessibility (OUA). Parties do not have to disclose information about the complaint or charge to request reasonable accommodation, except to the extent that it may assist in the determination of specific accommodations.

Accommodations are determined on an individual basis by SAS or OUA and are implemented in consultation with the case investigator(s). Examples of reasonable accommodations include 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.

#### **5. Official Method of Communication**

Formal correspondence to parties, witnesses, and others engaged in this process will be sent via e-mail to the person's Ohio University email address, or to the email address provided by a participant who is not a member of the Ohio University community. At the discretion of the Title IX Coordinator, an alternate means of delivering formal correspondence may be utilized if circumstances warrant. Once emailed, or otherwise sent or given in person, correspondence will be presumptively delivered.

#### **6. Complainant Initial Meeting**

Staff from ECRC will contact the complainant as soon as possible upon receipt of a report of alleged sexual harassment, other sexual misconduct, or retaliation to set up an initial meeting. The complainant may be accompanied at the initial meeting by an advisor of their choice and up to two support people as defined in Section 1.

The following information will be discussed with the complainant, if applicable based in the nature of the report and the status of the complainant:

- The complainant's immediate safety and well-being;
- The name and contact information for the Title IX Coordinator;
- The rights of the complainant and respondent (see Appendix A), including the right to be accompanied at all meetings and the hearing, if applicable, by an advisor of their choice (see Appendix B);
- Medical, mental health, law enforcement, and other resources available both on campus and in the surrounding community;
- Possible supportive measures;
- The obligation of ECRC to notify the appropriate law enforcement agency if the report indicates that sexual violence and/or another felony may have been committed. While ECRC is obligated to contact law enforcement, complainants are not required to speak with the police unless they so choose;

- The process for filing a formal complaint, the possibility that a formal complaint could be signed by the Title IX Coordinator instead of the complainant, and the factors that would be taken into consideration before such a step was taken;
- The process for investigating and resolving alleged violations of sexual harassment, other sexual misconduct, and retaliation;
- The general timeline of the grievance process;
- The importance of preserving potential evidence;
- The standard of evidence applied to determine a violation;
- The possible sanctions and remedies that may be applied if the respondent is found in violation;
- The Ohio University policy prohibiting retaliation due to any person's participation or non-participation in the Sexual Harassment and Other Sexual Misconduct Grievance Process; and
- Amnesty available to students participating in the grievance process for alcohol or drug-related violations of the Student Code of Conduct.

The ECRC staff member may also verify the information received in the initial report with the complainant. If the complainant wishes to submit a formal complaint, the ECRC staff member will provide assistance, if desired.

Should the complainant not respond to ECRC's initial attempt to contact them, ECRC will make two additional attempts. Should the complainant not respond after three attempts have been made, ECRC will send the complainant written acknowledgment of their non-participation and notice of the next steps that will be taken. Should the complainant later choose to participate, they may re-engage at any point, keeping in mind that delays may limit access to evidence or present issues with respect to the status and availability of the parties and/or witnesses.

## **7. Provision of Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment or to deter sexual harassment, other sexual misconduct, and retaliation.

Upon receipt of a report alleging a violation of this policy, information regarding the availability of supportive measures will be sent to the complainant, along with a request for the complainant to attend an initial meeting with an ECRC staff member. At the initial meeting, the ECRC staff member will discuss the availability of supportive measures and consider the complainant's wishes regarding what supportive measures may be implemented. The ECRC staff member will also explain the process for filing a formal complaint, including that supportive measures are available with or without the filing of a formal complaint.

Ohio University will act to minimize the academic and/or occupational impact on the parties as much as possible and will maintain the privacy of supportive measures to the extent that it does not impair the provision of the supportive measures.

Supportive measures may include, but are not limited to:

- Referral to campus and community counseling, medical, and/or other healthcare services, including the employee assistance program, as appropriate;
- Implementing no contact orders between the parties\*;
- Altering campus housing assignment(s);
- Altering work arrangements for employees, including student employees;
- Academic support, extensions of deadlines, or other course/program-related adjustments;
- Class schedule modifications, withdrawals, or leaves of absence;
- Safety planning;
- Providing campus safety escorts and/or transportation accommodations;
- Visa and immigration assistance;
- Student financial aid counseling;
- Timely warnings;
- Increased security and monitoring of certain areas of campus;
- Education to the campus community or community subgroup(s); and
- Any other actions deemed appropriate by the Title IX Coordinator.

If a party procures a restraining order or similar order from a court, the party is encouraged to notify OUPD of the order so that OUPD can assist, as needed, with enforcement of the order.

\* Violations of no contact orders will be referred to the appropriate student or employee conduct process for enforcement.

## **8. Emergency Removal and Administrative Leave**

Under specific circumstances, Ohio University may remove a student respondent from the University's education program or activity, in part or entirely, on an emergency basis. Before an emergency removal is enacted, the Title IX Coordinator conducts an individualized safety and risk analysis. The Title IX Coordinator must determine that an immediate threat to the physical health and safety of any student or other individual arising from the allegations of sexual harassment or other sexual misconduct justifies removal and provide the respondent with notice of the emergency removal and an opportunity to challenge the decision immediately following the removal. See Appendix C for a full description of the process for emergency removal of a student.

If deemed appropriate, Ohio University may place a non-student employee respondent on administrative leave during the completion of the grievance process.

## **9. Formal Complaint**

A formal complaint is a document submitted by a complainant or signed by the Title IX Coordinator alleging behavior prohibited by University Policy 03.004 (sexual harassment, other sexual misconduct, or

retaliation) against a respondent and requesting that the University investigate the allegation. When the Title IX Coordinator signs a formal complaint, they are not a complainant or other party in any resulting investigation.

A formal complaint may be submitted to the Title IX Coordinator in person, by mail, or by electronic mail. It must contain the complainant's physical or digital signature, or otherwise indicate that the complainant is the person submitting the complaint and requesting that the allegations be investigated through the Sexual Harassment and Other Sexual Misconduct Grievance Process.

If a formal complaint is submitted, the respondent is notified of the allegations in the complaint, including the identity of the complainant. While a formal complaint may be submitted at any time and without any prior contact with an ECRC staff member, complainants may want to consider submitting a report and meeting with ECRC staff to learn about supportive measures available to them and options for proceeding before deciding to submit a formal complaint.

#### **10. When a Complainant Does Not Submit a Formal Complaint**

If a complainant does not submit a formal complaint, the Title IX Coordinator may decide to sign a formal complaint in lieu of one being submitted by the complainant.

The following factors will be taken into account by the Title IX Coordinator when making this decision:

- The reported use of force during the commission of an alleged violation of sexual harassment or other sexual misconduct;
- The reported use of a weapon during the commission of an alleged violation of sexual harassment or other sexual misconduct;
- Significant physical injury resulting from an alleged violation of sexual harassment or other sexual misconduct;
- The involvement of multiple respondents in the commission of an alleged violation of sexual harassment or other sexual misconduct;
- Prior allegations (substantiated or not) of sexual harassment or other sexual misconduct made against the respondent; and
- 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), and
  - Any position of trust a respondent may hold due to the nature of their employment or other relevant status with the University.

The Title IX Coordinator must also consider the effect that non-participation by the complainant may have on the availability of evidence and Ohio University's ability to pursue the Sexual Harassment and Other Sexual Misconduct Grievance Process fairly and effectively. The Title IX Coordinator has ultimate discretion over whether an investigation will proceed when the complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate the grievance process upon completion of an appropriate assessment.

If the Title IX Coordinator signs a formal complaint, they do not become the complainant. The complainant is the individual who is alleged to be the victim of conduct that could constitute a violation

of University Policy 03.004. Under this circumstance, the complainant would receive notice that the grievance process is being initiated and retain all of their rights under the grievance process regardless of their level of participation.

If a formal complaint is not submitted by the complainant or signed by the Title IX Coordinator, the Title IX Coordinator will offer supportive measures to the complainant, but will not otherwise pursue formal action. Complainants choosing not to file a formal complaint should be aware that Ohio University's ability to respond to notice and provide some supportive measures may be limited if the complainant does not want to be identified and/or does not want the University to proceed with the grievance process.

Even if a complainant decides not to file a formal complaint, they retain the ability to request an investigation at a later date by submitting a formal complaint at that time, keeping in mind that delays may limit access to evidence or present issues with respect to the status and availability of the parties and/or witnesses.

If another report of sexual harassment or other sexual misconduct is received regarding the same respondent, the Title IX Coordinator will reassess the situation and may choose to sign a formal complaint in the original case in the interest of the safety of the campus community. In this instance, the Title IX Coordinator will attempt to contact the original complainant to discuss the need to move forward with the grievance process. If the complainant is unable to be reached or does not respond after two attempts, the Title IX Coordinator will notify the complainant in writing regarding the change of circumstances before proceeding to use the complainant's name in a formal complaint signed by the Title IX Coordinator.

#### **11. Dismissal of a Formal Complaint under Title IX**

If a formal complaint is filed by the complainant or signed by the Title IX Coordinator, the Title IX Coordinator undertakes the following assessment to determine if the alleged violation falls within the scope of Title IX.

As mandated by the 2020 Title IX Regulations, 34 CFR§106.45, a formal complaint, or any allegations therein, must be dismissed under Title IX if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined by Title IX regulations (Offenses 1-6 in University Policy 03.004), even if proved; and/or
2. The conduct did not occur in an education program or activity over which Ohio University exercises substantial control (including buildings or property owned or controlled by recognized student organizations); and/or
3. Ohio University does not exercise substantial control over the respondent; and/or
4. The conduct did not occur against a person in the United States; and/or

5. At the time of the filing of a formal complaint, the complainant is not participating in or attempting to participate in the education program or activity of Ohio University.

A formal complaint, or any allegations therein, may be dismissed under Title IX if, at any time during the investigation or hearing:

1. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein (the complainant may later request to reinstate or refile it); or
2. The respondent is no longer enrolled in or employed by Ohio University; or
3. Specific circumstances prevent Ohio University from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations therein.

Upon any dismissal, the Title IX Coordinator will promptly send written notice of the dismissal under Title IX and the rationale for doing so simultaneously to the parties.

A decision to dismiss is appealable by either party on the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding the dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the decision to dismiss.

Either party may appeal the decision to dismiss by submitting a written request for review of the decision. This request must be sent to the Title IX Coordinator within three (3) business days of the notice of the dismissal decision being sent to the parties. If the grounds for appeal include a conflict of interest or demonstrated bias on the part of the Title IX Coordinator, appeals may be submitted to the Deputy Title IX Coordinator who will administer the remainder of the dismissal appeal process.

If either party submits an appeal, the appeal will be shared with the other party who will then have three (3) business days to submit a rebuttal to the Title IX Coordinator. At their discretion, and for cause, the Title IX Coordinator may elect to extend the deadline for appeals and/or rebuttals. Should this occur, both parties will be notified of the new deadline.

If the grounds for appeal include a claim of procedural irregularity or conflict of interest or bias, the Title IX Coordinator will be provided access to the appeal and be given three (3) business days to submit a response to the portion of the appeal that involves them.

The appeal, as well as the rebuttal and response, if any, will be reviewed by an appeal officer, who is not otherwise involved in the case. The appeal officer will decide if the dismissal under Title IX was appropriate or if the formal complaint or allegations therein will proceed under Title IX. Within three (3) business days, the appeal officer will send written notice of their decision and rationale simultaneously to the parties. If necessary, the appeal officer may take additional time to fully consider the appeal(s) and rebuttal(s). Should this occur, both parties will be notified.

Dismissing a formal complaint, or any allegations therein, under Title IX is a procedural requirement, and does not limit Ohio University's authority to address the allegations under University policy and proceed with the grievance process.

If the formal complaint, or any allegations therein, are dismissed under Title IX, the Title IX Coordinator will assess which University policies may apply to the alleged behavior and move the matter forward in the grievance process, if applicable, or forward the matter to be addressed under another University policy or process, as appropriate.

## **12. Counterclaims**

Counterclaims may be resolved through the same investigation and hearing as the underlying allegation, or the investigation of such claims may take place after resolution of the underlying allegation, at the discretion of the Title IX Coordinator.

## **13. Amnesty for Violations of Alcohol and Drug Policies under the Student Code of Conduct**

In order to encourage reporting of alleged violations of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct and to support candid communication of information, students participating in the grievance process (complainants, respondents, and witnesses) will not be charged with alcohol or drug-related violations of the Student Code of Conduct if they engaged in 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. Amnesty does not apply to the respondent if drugs or alcohol were allegedly used to facilitate a violation of University Policy 03.004.

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

A violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct by a student, student organization, or student group would also be a violation of the Student Code of Conduct. The Ohio University Student Code of Conduct applies to all students, student organizations, and student groups whether the prohibited behavior occurred on or off campus; therefore, University Policy 03.004 applies to prohibited behavior by students, student organizations, and student groups whether it occurs on-campus or off-campus. Further, allegations of other conduct prohibited by the Student Code of Conduct may be investigated and adjudicated through the Sexual Harassment and Other Sexual Misconduct Grievance Process in conjunction with violations of University Policy 03.004.

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

The Sexual Harassment and Other Sexual Misconduct Grievance Process may be initiated when a respondent is charged with behavior that potentially violates both civil/criminal law and University policy, without regard to pending litigation in court or criminal arrest and prosecution. The grievance process may be carried out prior to, simultaneously with, or following criminal or civil proceedings. Determinations made and sanctions imposed under this policy 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 regarding students generated as a result of this process are considered education 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. Further, records generated regarding employees as a result of this process are considered to be employment records and are subject to release under the order of a lawful subpoenas and pursuant to Ohio's public records act.

#### **16. Privacy within the Grievance Process**

Grievance process proceedings are private. All persons present at any time during the grievance process are expected to maintain the privacy of the proceedings in accordance with Ohio University policy and federal and state laws and regulations. Although there is an expectation of privacy around information and evidence shared with the parties during the investigation and hearing, the parties have discretion to share their own knowledge and evidence with others if they so choose. Parties are encouraged to discuss any sharing of information with their advisors before doing so.

#### **17. Grievance Process Pool**

Members of the grievance process pool include investigators, hearing panelists, appeal officers, and advisors who may perform any or all of these roles, though not at the same time or with respect to the same case.

Grievance process pool members receive annual training based on their assigned roles. This training includes topics appropriate for the roles filled by each member of the pool, which may include, but are not limited to, the following:

- The content of Ohio University Policy 03.004: Sexual Harassment and Other Sexual Misconduct, including the scope the University's education program or activity;
- The definitions of all offenses;
- Conducting investigations and hearings in a manner that protects the safety of complainants and respondents, and promotes accountability;
- Serving impartially and objectively by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- Upholding fairness, equity, and due process;
- Reporting, confidentiality, and privacy requirements;
- Applicable laws, regulations, and federal regulatory guidance;
- Conducting the grievance process, including the investigation, hearing, and appeals, in a thorough, reliable, and impartial manner;
- Conducting questioning;
- Issues of relevance of questions and evidence in the creation of an investigative report and/or in a hearing;
- Assessing credibility;
- Weighing evidence;

- Applying the definition of consent used by Ohio University consistently, impartially, and in accordance with policy;
- Rendering findings and generating clear, concise, evidence-based rationales;
- Determining appropriate sanctions and conditions of sanction for all charges;
- Implementing appropriate and situation-specific remedies;
- Any technology to be used at a live hearing; and
- Recordkeeping.

Members of the grievance process pool who serve as advisors receive specific training to prepare them for this role. The materials used to train members of the grievance process pool are publicly posted at <https://www.ohio.edu/equity-civil-rights/training-materials-title-ix-team>.

### **18. Ensuring Impartiality**

Any individual materially involved in the administration of the grievance process (including the Title IX Coordinator, Investigators, hearing panelists, and appeal officers) may neither have nor demonstrate a conflict of interest or bias for complainants or respondents generally, or for a specific complainant or respondent.

The Title IX Coordinator will vet the assigned grievance process pool members to ensure there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the grievance process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the office of the Executive Vice President and Provost.

The grievance process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the respondent engaged in a policy violation and evidence that supports that the respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a complainant, respondent, or witness.

Ohio University operates with the presumption that the respondent is not responsible for the reported misconduct unless and until the respondent is determined to be responsible for a policy violation by the preponderance of the evidence.

### **19. Assignment of Investigators**

Once the decision to commence the grievance process is made, the Title IX Coordinator assigns two members of the grievance process pool to conduct the investigation.

## **20. Notice of Investigation and Allegations**

The respondent will be provided a written notice of the investigation and allegations (the “NOIA”) with sufficient time to prepare before any interview will be conducted. The complainant will also be provided a copy of the written NOIA. The delivery of the NOIA commences the Sexual Harassment and Other Sexual Misconduct Grievance Process.

The NOIA will include:

- A summary of the conduct allegedly constituting a violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct and any related allegations of violations of the Student Code of Conduct to be addressed through the grievance process, if applicable;
- The identities of the involved parties (if known);
- The date and location of the alleged incident(s) (if known);
- The specific policies implicated;
- A description of the applicable procedures, including the rights of the complainant and respondent and the standard of evidence applied to determine a violation;
- A statement of the potential sanctions that could result from the grievance process;
- A statement that Ohio University presumes the respondent is not responsible for the reported misconduct unless and until the preponderance of the evidence supports a different determination;
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- A statement about Ohio University’s policy on retaliation;
- Information about the privacy of the process;
- Information on the need for each party to have an advisor of their choosing, who may be, but is not required to be, an attorney;
- A statement informing the parties that Ohio University policy prohibits knowingly making false statements, including knowingly submitting false information during the grievance process;
- Details on how the parties may request disability accommodations, language assistance, and/or interpretation services during the investigation and hearing process;
- An instruction to preserve any evidence that is directly related to the allegations; and
- The names of the investigators, along with a process to identify to the Title IX Coordinator any conflict of interest that the party believes the investigator(s) may have.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of allegations or charges.

Notice will be made in writing and will be emailed to the parties’ Ohio University email account. At the discretion of the Title IX Coordinator, an alternate means of delivering the NOIA may be utilized if circumstances warrant. Once emailed, or otherwise sent or given in person, notice will be presumptively delivered.

## **21. Grievance Process Timeline**

Ohio University will make a good faith effort to complete the grievance process within ninety (90) business days including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator. Notice and rationale for any extensions or delays will be provided to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

## **22. Respondent Initial Meeting**

After the NOIA has been sent, the investigators will schedule an initial meeting with the respondent. The respondent may be accompanied at the initial meeting by an advisor of their choice and up to two support people as defined in Section 1. The purpose of this meeting is to review the information sent to the respondent in the NOIA, to provide additional information about the grievance process and available supportive measures, and to answer any questions the respondent or their advisor may have. The respondent will not be asked any questions about the allegations at the initial meeting.

The information that will be discussed with the respondent, if applicable based in the nature of the report and the status of the respondent, includes but is not limited to:

- A review of the information included in the NOIA;
- The name and contact information of the Title IX Coordinator;
- The rights of the complainant and respondent (see Appendix A), including the right to be accompanied at all meetings and the hearing, if applicable, by an advisor of their choice (see Appendix B);
- Possible supportive measures, including the availability of mental health and other resources both on campus and in the surrounding community;
- The process for investigating and resolving alleged violations of sexual harassment, other sexual misconduct, and retaliation;
- The general timeline of the grievance process;
- The importance of preserving potential evidence; and
- Amnesty available to students participating in the grievance process for alcohol or drug-related violations of the Student Code of Conduct.

Should the respondent not respond to the initial attempt to meet, the investigators will make two additional attempts. If the respondent does not respond at all, the investigators 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.

## **23. Investigation Timeline**

The investigation portion of the grievance process will be completed as quickly as possible, normally within forty (40) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, number and availability of witnesses, police involvement, etc.

Ohio University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

#### **24. Delays in the Investigation Process and Interactions with Law Enforcement**

At the discretion of the Title IX Coordinator, the investigation may be paused for a short period (typically several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The investigators will communicate in writing the anticipated duration of the delay and reason to the parties, and provide the parties with status updates, if necessary. The investigation will promptly resume as soon as feasible. During such a delay, the Title IX Coordinator will implement supportive measures as deemed appropriate.

The grievance process may be initiated when a respondent is charged with behavior that potentially violates both civil/criminal law and University policy, without regard to pending litigation in court or criminal arrest and prosecution. The grievance process may be carried out prior to, simultaneously with, or following criminal or civil proceedings. Determinations made and sanctions imposed through 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.

#### **25. Participation in the Grievance Process - Students**

Should a student who is a complainant or respondent decide to not participate in the grievance process, the process proceeds in their absence to a reasonable resolution. The student will continue to receive updates regarding the progress of the investigation and hearing, if any, and may re-engage with the grievance process at any time prior to its conclusion.

#### **26. Participation in the Grievance Process - Employees**

Should an employee who is a complainant or respondent decide to not participate in the grievance process, the process proceeds in their absence to a reasonable resolution. The employee will continue to receive updates regarding the progress of the investigation and hearing, if any, and may re-engage with the grievance process at any time prior to its conclusion.

Should an employee respondent resign with unresolved allegations pending, the grievance process ends, as the University no longer has disciplinary jurisdiction over the resigned employee. However, the Title IX Coordinator will continue to address and remedy any on-going effects of the alleged sexual harassment or other sexual misconduct on the complainant and/or community.

An employee respondent who resigns with unresolved allegations pending is not eligible for rehire with Ohio University at any campus or center, and the records retained by the Title IX Coordinator and

Human Resources will reflect that status. All Ohio University responses to future inquiries regarding employment references for that respondent will include that the former employee resigned during a pending disciplinary matter.

## **27. The Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

## **28. Interviews**

Throughout the investigation, the investigators will identify individuals they believe may have information relevant to the matter and will contact those individuals as potential witnesses. Additionally, the parties will be given the opportunity to suggest relevant witnesses. If unclear, the investigators may request that the parties explain how witnesses they suggest are connected to the matter being investigated and what relevant information they believe the person can provide to investigators.

The parties will also be given the opportunity to suggest questions they want the investigators to ask of the other party and of witnesses. The questions provided by the parties will be documented in the investigative report, along with notations for which questions were asked and a rationale for any changes or omissions.

The investigators will interview the parties and all available, relevant witnesses. When a party or witness is expected to participate in an interview, the investigators will provide them with written notice of the day, time, and location of the meeting, as well as the expected participants and purpose. Follow up interviews may be scheduled with parties or witnesses as needed, for example, if additional charges are placed.

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

Should a witness not respond to the initial attempt to meet for an interview, the investigators will make at least one additional attempt to schedule with that witness before moving forward in the process.

Interviews of the parties and witnesses may be conducted in person, or if circumstances warrant, they may be conducted remotely using Zoom or a similar technology, or by phone, if necessary. The investigators will take appropriate steps to ensure the security and privacy of remote interviews.

The investigators take careful and thorough notes regarding the questions asked and information provided during interviews with the parties and witnesses. Interviews are not audio or video-recorded.

Following each interview, the investigators will combine their notes into a summary of the relevant information from the interview. Interviewed parties and witnesses will be given the opportunity to review and verify the summary of their respective interviews written by the investigators. Clarifications resulting from a misunderstanding or error on the part of the investigators will be corrected before the summary is finalized. Additions or changes to the information provided by the party or witness will be added to the summary with a notation.

Witnesses (as distinguished from the parties) who are employees of the Ohio University are expected to cooperate with and participate in the grievance process. Failure of such witnesses to cooperate with and/or participate in the grievance process constitutes a violation of policy and may warrant discipline.

### **29. Evidentiary Considerations of the Investigation**

The following information will not be considered relevant to the investigation: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent; 3) information protected by a legally recognized privilege, unless the holder of the privilege has voluntarily waived it in writing. Within the boundaries stated above, the investigation can consider relevant character evidence.

### **30. Review of Draft Investigative Report and Directly-Related Evidence**

Prior to the conclusion of the investigation, the parties and their respective advisors (if so desired by the parties) will be provided access to a secured electronic copy of the draft investigative report, as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct. This directly related evidence will include evidence, if any, which the investigators do not believe is relevant and do not intend to include in the finalized investigative report for the hearing panel to rely on in reaching a determination.

The draft investigative report will include the following: the names of the investigators, a list of involved parties and witnesses, policies applicable to the matter, an overview of the allegations, the charges placed in the matter, summaries of the interviews with the parties and the available relevant witnesses, and other information as deemed relevant by the investigators. Appendices will include relevant physical or documentary evidence, questions asked by the investigators and suggested by the parties, and a comprehensive timeline of the investigation.

The investigators gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.

The draft investigative report and directly related evidence will be available to the parties and their advisors for a ten (10) calendar day review and comment period so that each party may meaningfully respond to the evidence in writing. The parties may elect to waive the full ten days.

The parties may elect to provide additional evidence or identify additional witnesses in response to the draft investigative report, but should understand that doing so at this point of the investigation may delay the completion of the grievance process.

### **31. Finalizing the Investigative Report and Directly Related Evidence**

If the parties submit written responses to the draft report and directly related evidence, the investigators will incorporate relevant elements of those written responses into the investigative report, include any additional relevant evidence, make any necessary revisions, and finalize the report.

The investigators may elect to respond in writing in the investigative report to the parties' submitted responses. The investigators will document all rationales for any changes made to the report after the review and comment period.

The final report will be shared with the parties and their advisors through secure electronic means at least ten (10) calendar days prior to a hearing. The parties will also be provided access to a file of any directly related evidence that was not deemed relevant and was, therefore, not included in the report.

If new evidence is provided by the parties after the investigative report is finalized, the Title IX Coordinator may delay the hearing so that the investigation may be reopened to consider that evidence.

### **32. Notice of Hearing**

No less than ten (10) calendar days prior to the hearing, the investigators will send the notice of hearing to the parties. Once emailed, mailed, and/or received in-person, notice will be presumptively delivered.

The notice of hearing will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions and remedies that could result;
- The time, date, and location of the hearing and a reminder that attendance at the hearing supersedes all other campus activities;
- Any technology that will be used to facilitate the hearing;
- If the live hearing will be held in person or via video technology and the process for requesting alternate arrangements for hearing participation if it is scheduled to be held in person;
- A list of those who will attend the hearing, along with instructions for how to object to a hearing panelist on the basis of demonstrated bias or conflict of interest;
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing;
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given

prior to the hearing will not be considered by the hearing panel. For compelling reasons, the hearing chair, in consultation with the Title IX Coordinator, may reschedule the hearing;

- Notification that the parties may have the assistance of an advisor of their choosing at the hearing and will be required to have one present to ask questions of the other party and witnesses. If they do not have an advisor, the Title IX Coordinator will appoint one for them;
- An invitation for each party to submit an impact statement, including any sanctioning requests should the respondent be found in violation, to the Title IX Coordinator prior to the hearing. The impact statement(s) will be held by the Title IX Coordinator and only provided to the hearing panel if the respondent is determined to be in violation and the hearing panel is making a sanctioning determination; and
- A reminder that disability accommodations, language assistance, and/or interpretation services may be requested for the hearing. Such a request must be made to the investigators no later than seven (7) business days prior to the hearing.

Hearings that are unable to be held prior to the end of a term will typically be held immediately after the end of the term or during the summer, as needed, to remain within the ninety (90) business day goal for the grievance process, to the extent possible.

### **33. Alternative Hearing Participation Options**

If the hearing is scheduled to take place in-person and a party or parties prefer not to or cannot attend in this manner, the party should request alternative arrangements from the investigators at least five (5) business days prior to the hearing so that the investigators can arrange to use technology to allow remote testimony.

Remote options may also be needed for witnesses who cannot attend in person. Any witness who cannot attend in person should let the investigators know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

### **34. Recusal of a Hearing Panelist**

The parties will be given the names of the members of the hearing panel (the hearing chair and two additional panelists) in the notice of hearing at least ten (10) calendar days prior to the hearing. The members of the hearing panel will not have had any previous involvement with the investigation.

Objections to any hearing panelist on the basis of demonstrated bias or conflict of interest must be raised in writing with the Title IX Coordinator at least five (5) business days prior to the hearing and must detail the rationale for the objection. Hearing panelists will only be removed if the Title IX Coordinator concludes that their demonstrated bias or conflict of interest precludes an impartial hearing of the allegations.

The hearing panelists will receive the names of all parties, witnesses, and advisors with the investigative report at least five (5) business days in advance of the hearing. Any hearing panelist who cannot make an objective determination must notify the Title IX Coordinator and recuse themselves from the proceeding. If a hearing panelist is unsure if bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

### **35. Pre-Hearing Meetings**

Upon completion of the investigative report, the investigators will schedule separate pre-hearing meetings for the parties. The parties may each be accompanied at their pre-hearing meeting by an advisor of their choice and up to two support people as defined in Section 1.

The pre-hearing meetings will be scheduled at least 5 business days prior to the hearing. The purpose of the pre-hearing meeting is to allow the investigators to answer any final questions the parties and their advisors may have and to clarify logistical matters such as confirming the identity of the parties' advisors and any requests the parties may have regarding their means of participation (i.e., remote participation by video technology). If a party does not attend the scheduled pre-hearing meeting, it will be cancelled, but the party may ask questions of the investigators as needed.

### **36. Hearing Procedures**

The hearing panel has the authority to hear and make determinations on allegations of violations of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. If the respondent is a student, the hearing panel may also hear and make determinations on allegations of other conduct prohibited by the Student Code of Conduct stemming from the same incident(s) as the allegations under University Policy 03.004.

Participants at the hearing will be limited to the hearing chair, two additional hearing panelists, the investigators who conducted the investigation, the parties, the advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services.

Hearings (but not deliberations) are recorded for purposes of review in the event of an appeal. The hearing panelists, the parties, their advisors, the appeal officer (if appropriate), and appropriate Ohio University administrators will be permitted to listen to the recording, if needed, through a controlled means determined by the Title IX Coordinator. No person will be given or allowed to make a copy of the recording without permission from the Title IX Coordinator.

The hearing chair conducts the hearing from a script, which will be provided to the parties and their advisors for their reference during the hearing.

The hearing chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The hearing chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to questions from the hearing panel and the parties' advisors; the witnesses will then be excused.

### **37. Joint Hearings**

At the discretion of the Title IX Coordinator, matters involving multiple complainants or respondents may be heard in the same hearing. Additionally, matters where there is a counter claim or cross-complaint (i.e., both parties allege that the other of violated University Policy 03.004) may also be heard

in the same hearing. However, the Title IX Coordinator may determine that the investigation and/or hearing for each respondent should be conducted separately. In joint hearings, separate determinations of responsibility will be made for each respondent with respect to each alleged policy violation.

### **38. Evidentiary Considerations in the Hearing**

Any evidence that the hearing panel determines is relevant and credible may be considered. The hearing panel will not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. Within the boundaries stated above, the hearing panel can consider relevant character evidence.

Prior disciplinary action of any kind involving the respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanctioning stage of the process, if there is a determination of responsibility, and is not shared with the hearing panel by the Title IX Coordinator until then.

The parties may each submit an impact statement, including any sanctioning requests should the respondent be found responsible, to the Title IX Coordinator prior to the hearing. The impact statement(s) will be held by the Title IX Coordinator and only provided to the hearing panel if the respondent is determined to be in violation and the hearing panel is making a sanctioning determination.

### **39. Order of the Hearing**

The following is a guide as to how the hearing will be conducted. This order may be amended at the discretion of the hearing chair.

- The hearing chair will begin the hearing by discussing expectations for the hearing.
- The hearing chair will give a brief overview of the nature of the allegations.
- The hearing panel may ask the investigators 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 panel will have an opportunity to ask complainant questions
- The respondent's advisor will be given the opportunity to ask relevant questions of the complainant as described below.
- The respondent will be given an opportunity to respond to the investigative report.
- The hearing panel will have an opportunity to ask respondent questions.
- The complainant's advisor will be given the opportunity to ask relevant questions of the respondent as described below
- The hearing panel will call witnesses and ask them questions.
- The complainant's advisor will be given the opportunity to ask relevant questions of witnesses as described below.

- The respondent's advisor will be given the opportunity to ask relevant questions of the witnesses as described below.
- The complainant will be given the opportunity to make a summary statement.
- The respondent will be given the opportunity to make a summary statement.

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

#### **40. Questioning of Parties and Witnesses**

During the hearing, the parties and witnesses will submit to questioning by the hearing panel and then by the parties through their advisors. The hearing panelists and advisors will remain seated during questioning.

The relevance of all questions will be determined by the hearing chair. The advisor will pose the proposed question, the proceeding will pause to allow the hearing chair to consider it, and the hearing chair will determine if the question will be permitted, disallowed, or rephrased.

The hearing chair will then state their decision on the question for the record and advise the party or witness to whom the question was directed to answer or not answer the question, accordingly. The hearing chair will explain any decision to exclude a question as not relevant or to reframe it for relevance.

The hearing chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior will not be considered relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The hearing chair has final say on all questions and determinations of relevance. The hearing chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the hearing chair has ruled on a question.

#### **41. Refusal to Submit to Questioning**

If a party or witness chooses not to submit to questioning by a party's advisor at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning, then the hearing panel may not rely on any statement made by that party or witness in determining responsibility, whether the statement was made at the hearing, during the investigation, or to another person.

Evidence provided by that party or witness that is something other than a statement may be considered by the hearing panel when determining responsibility. This includes evidence that does not constitute

the party or witness's intent to make factual assertions or does not contain the party or witness's statements. Further, a respondent's alleged verbal conduct that itself constitutes the sexual harassment at issue may be considered by the hearing panel, even if the respondent does not submit to questioning by the other party's advisor.

Questioning by a party's advisor is an all or nothing proposition, meaning that if any relevant question is refused, no statements made by the refusing party or witness are admissible. Only if a party or witness is willing to submit to questioning by the advisor(s), and answers all questions that are deemed relevant by the hearing chair, will their statements prior to or at the hearing be admissible.

Whether or not a party answers questions from the hearing panel, their statements will be admissible as long as they are willing to submit to questions from the advisor(s); this is true even if the advisor(s) choose not to ask any questions. The hearing panel may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer questions from the advisor(s) or hearing panel.

#### **42. Deliberation, Decision-making, and Standard of Proof**

The hearing panel will deliberate in closed session and determine findings by a simple majority vote. The hearing panel will use the preponderance of the evidence standard in making their decision as to whether or not University policy was violated.

When there is a finding of responsibility on one or more of the charges, the hearing panel will request any impact statements previously submitted by the parties and the respondent's previous disciplinary history, if any, from the Title IX Coordinator. If the impact statements are provided to the hearing panel, the parties and their advisors will be given access to view them during the appeal period described below.

The hearing panel may - at their discretion - consider the impact statements. The hearing panel will review the statements and the respondent's conduct history, if any, and will determine the appropriate sanctions for the respondent and remedies for the complainant, in consultation with appropriate University officials, as required.

The hearing chair will then prepare a written statement of finding and deliver it to the Title IX Coordinator. This statement will detail the determination, the rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions and remedies.

This report must be submitted to the Title IX Coordinator within three (3) business days following the conclusion of the hearing, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

#### **43. Notice of Outcome**

Using the statement of finding, the Title IX Coordinator will work with the hearing chair to prepare a notice of outcome. The Title IX Coordinator will then share the notice, including the final determination, rationale, and any applicable sanctions and remedies (as outlined below) with the parties and their advisors within four (4) business days of receiving the statement of finding from the hearing panel,

unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

The notice of outcome will be shared with the parties simultaneously. The notice will be made in writing and will typically be emailed to the parties and their advisors; however, any of the following methods may be used, in person, mailed to the local or permanent address of the parties as indicated in Ohio University records, or emailed to the parties' Ohio University email or otherwise provided and approved email address. Once emailed, mailed, and/or received in person, notice will be presumptively delivered.

The notice of outcome will state a summary of the allegations and the specific policies reported to have been violated and will contain a description of the procedural steps taken by Ohio University from the receipt of the report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and meetings and hearings held.

The notice of outcome will specify the finding on each policy violation; the findings of fact that support the determinations; conclusions regarding the application of relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation; any sanction and conditions of sanction issued which are permitted to be shared under state or federal law; and any remedies provided to the complainant designed to ensure access to Ohio University's education or employment program, to the extent that this information may be shared under state or federal law (details of remedies are not typically shared with the respondent unless the remedy directly relates to them).

The notice of outcome will also include information about the appeal options and process, any changes that occur prior to finalization, and when the results are considered by Ohio University to be final.

#### **44. Sanctioning**

Factors considered when determining a sanction and related conditions of sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s);
- The respondent's disciplinary history;
- The need for a sanction to end the impact of the sexual harassment and/or other sexual misconduct, to prevent its future recurrence, and/or to remedy its effects on the complainant and/or the community;
- The impact on the parties; and
- Any other information deemed relevant by the hearing panel.

Sanctions and conditions of sanction will be implemented either upon the outcome of any appeal or the expiration of the window to appeal if no appeal is requested.

#### **45. Sanctions Applicable to Student Respondents**

The following are the usual sanctions that may be imposed on students and student organizations or groups:

- **Reprimand** – Official notification of unacceptable behavior and violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct and/or the Student Code of Conduct. Any further violations may result in more serious sanctions.
- **Disciplinary Probation** – Sanction imposed for a designated period of time. Further violations of prohibited conduct may result in further disciplinary action, up to and including disciplinary suspension or disciplinary expulsion. Periodic probationary meetings may be required. Any assigned conditions of sanction must be completed prior to the conclusion of disciplinary probation; otherwise, the disciplinary probation will remain in effect until the conditions of sanction are completed.
- **Disciplinary Suspension (Student)** – Sanction imposed for a designated period of time. During the period of disciplinary suspension, the student may not attend classes (either in person or online) or participate in University-related activities, whether they occur on or off campus. Additionally, a student under disciplinary suspension may not be present on University premises unless authorized in writing in advance by the Title IX Coordinator. All assigned conditions of sanction must be completed prior to the conclusion of the disciplinary suspension; otherwise, the disciplinary suspension will remain in effect until the conditions of sanction are completed.

Students who have been suspended from the University through the Sexual Harassment and Other Sexual Misconduct Grievance Process must petition for re-enrollment through the Title IX Coordinator, who may grant the petition at their discretion. Students must complete a re-enrollment form through the registrar and be in good academic standing with their college to otherwise be eligible to re-enroll and return to the University. Students who re-enroll following a period of disciplinary suspension will return on disciplinary probation for the remainder of their academic career at Ohio University.

- **Disciplinary Expulsion (Student)** – Sanction which permanently removes the student from their academic program and separates the student from the University without the opportunity to graduate or re-enroll in the future. A student under disciplinary expulsion may not be present on University premises unless authorized in writing in advance by the Title IX Coordinator. Disciplinary expulsion will be noted on the student's academic transcript.
- **Disciplinary Suspension (Student Organization or Group)** – A temporary revocation of University recognition. While an organization or group is suspended, it may not use University resources or participate as an organization in any University activities or events. Disciplinary suspension of a student organization or group will not exceed five years. Student organizations or groups who have been suspended from the University through the Sexual Harassment and Other Sexual Misconduct Grievance Process must petition for re-enrollment through the Title IX Coordinator, who may grant the petition at their discretion and in consultation with the director of community standards and student responsibility. Student organizations or groups who return following disciplinary suspension will return on a period of disciplinary probation.
- **Disciplinary Expulsion (Student Organization or Group)** – Permanent revocation of University recognition of the organization or group.

In conjunction with a sanction, a student respondent found to be in violation of this policy may be assigned conditions of sanction, which include but are not limited to, access restriction, revocation of rights and privileges, housing or worksite reassignment, educational activities, etc.

The Title IX Coordinator is responsible for monitoring completion and compliance with all sanctions and conditions of sanction.

#### **46. Sanctions Applicable to Employees**

The following are the usual sanctions that may be imposed on employees:

- **Censure** – a formal statement of disapproval.
- **Reprimand** – official notification of unacceptable behavior and violation of University Policy 03.004: Sexual Harassment and Other Sexual Misconduct. Any further violations may result in more serious sanctions.
- **Suspension without Pay** – a defined period of time during which the respondent will not be permitted to work and will not receive pay.
- **Demotion and/or Loss of Tenure** – reassignment to a position of lower rank and pay.
- **Dismissal/Termination of Employment** – the end of an employee’s work at the University.

In conjunction with a sanction, an employee respondent found to be in violation of this policy may be assigned conditions of sanction, which include but are not limited to, a performance improvement plan, denial of pay increase/pay grade, worksite reassignment, educational or training activities, restriction of stipends, research, and/or professional development resources, etc.

#### **47. Appeals of Hearing Outcome**

Both parties may file a request for appeal, which must be submitted in writing within five (5) business days of the delivery of the notice of outcome. The notice of outcome will include a link to the online appeal form, which should be used to submit any appeal to the Title IX Coordinator.

Any sanctions or conditions of sanctions imposed as a result of the hearing are typically stayed during the appeal process. If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, the emergency removal procedures must be followed (see Appendix C).

Appeals are limited to the following grounds:

- A procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or hearing panelist(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. (If an appeal claims a conflict of interest or bias on the part of the Title IX Coordinator, the Deputy Title IX Coordinator will manage the administration of the appeal process.)

If either party submits an appeal, that appeal and a link to the online rebuttal form will be shared with the other party who will then have five (5) business days to submit a rebuttal. At their discretion, and for cause, the Title IX Coordinator may elect to extend the deadline for appeals and/or rebuttals. Should this occur, both parties will be notified of the new deadline.

If the grounds for appeal include a claim of procedural irregularity or conflict of interest or bias, the Title IX Coordinator, investigators and/or hearing panelists, as appropriate based on the content of the appeal, will be provided access to the appeal and be given five (5) business days to submit a response to the portion of the appeal that involves them.

The appeal, as well as the rebuttal and responses, if any, will be provided to the appeal officer, along with the case file. The appeal officer will be a member of the grievance process pool who was not involved in the process previously.

The following will guide the appeal officer during the review and consideration of the appeal and related materials:

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is a clear error and to the sanction and/or conditions of sanction only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing of the allegation(s). Appeals are confined to a review of the written documentation and case file of the original hearing and pertinent documentation regarding the specific grounds for appeal. The appeal officer may listen to part or all of the hearing recording, as needed to consider the specific grounds for appeal.
- An appeal is not an opportunity for the appeal officer to substitute their judgment for that of the original hearing panel merely because they disagree with the finding and/or sanction.
- The appeal officer may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, as needed.
- Appeals granted based on new evidence will normally be remanded to the original investigators for necessary investigation and to the original hearing panel for reconsideration.
- Appeals granted on the basis of a procedural irregularity will typically be remanded to the original hearing panel for reconsideration or, if deemed appropriate by the appeal officer, a new hearing may be ordered with a new hearing panel.
- Actions taken if an appeal is granted on the basis of conflict of interest or bias will vary based on the role of the individual(s) identified as having the conflict of interest or demonstrating bias.

Within ten (10) business days of receiving materials related to the appeal, the appeal officer will make a decision on the appeal. If necessary, the appeal officer may take additional time to fully consider the appeal and rebuttal. Should this occur, both parties will be notified.

A written notice of appeal outcome will be sent to both parties simultaneously and will specify the finding on each ground for appeal and the rationale for each decision. If applicable, the notice may also include any specific instructions for remand or reconsideration, changes to the finding or to any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings.

The notice of appeal outcome will typically be emailed to the parties and their advisors; however, any of the following methods may be used, in person, mailed to the local or permanent address of the parties as indicated in Ohio University records, or emailed to the parties' Ohio University email or otherwise provided and approved email address. Once emailed, mailed, and/or received in person, notice will be presumptively delivered.

Once an appeal is decided, the outcome is final. Further appeals are not permitted unless a case is remanded to the original hearing body or new hearing is ordered. The finding and sanction (if any) that result from the remand or new hearing may be appealed on the grounds listed above and in accordance with the appeal process.

#### **48. Notice of Final Determination**

The Title IX Coordinator will issue a notice of final determination to both parties following the conclusion of the appeal process including a remand to the original hearing panel or a new hearing, or if there is no appeal, once the appeal period has passed. This notice will confirm that the grievance process has concluded, identify any changes that have occurred, and offer long-term remedies or other actions, as appropriate.

#### **49. Long-Term Remedies and Other Actions**

Following the conclusion of the grievance process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment or other sexual misconduct, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services,
- Referral to the Employee Assistance Program,
- Education to the individual and/or the community,
- Permanent alteration of housing assignments,
- Permanent alteration of work arrangements for employees,
- Climate surveys,
- Policy modification and/or training,
- Implementation of long-term contact limitations between the parties, and
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will identify any remedies needed to ensure no effective denial of educational access for the respondent.

As permitted in accordance with applicable law, Ohio University will maintain the privacy of any long-term remedies and supportive measures, provided privacy does not impair the University's ability to provide these services.

#### **50. Failure to Comply with a Sanction, Conditions of Sanction, or Remedies**

Respondents are expected to comply with an assigned sanction, any conditions of sanction and any remedies that relate to them within the timeframe specified by the hearing panel and/or appeal officer. Failure to do so, whether by refusal, neglect, or any other reason, may result in additional disciplinary action.

#### **51. Recordkeeping**

Ohio University will maintain records of the following for a period of at least seven (7) years:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on respondents;
3. Any remedies provided to complainants designed to restore or preserve equal access to Ohio University's education program or activity;
4. Any appeals and the results therefrom;
5. All materials used to train Title IX Coordinators, investigators, hearing panelists, and appeal officers, which will be made publicly available on the University's website; and
6. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to Ohio University's education program or activity; and
  - c. If no supportive measures were provided to the complainant, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Ohio University will also maintain any and all records in accordance with state and federal laws.

#### **52. Process Review**

The offices of Legal Affairs and Equity and Civil Rights Compliance will review this process periodically to assess the effectiveness and continued compliance. Changes will be made as necessary, and once those changes are posted online, they are in effect.

During the grievance process, the Title IX Coordinator may make minor modifications to the process that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

**Appendix A**  
**Rights of the Parties**

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:

- A fundamentally fair resolution as defined in the Sexual Harassment and Other Sexual Misconduct Grievance Process,
- Have their matter handled in a forthright and timely manner and to be treated with respect by Ohio University officials,
- Regular updates on the status of the grievance process,
- Have University Policy 03.004: Sexual Harassment and Other Sexual Misconduct Policy and its related process followed without material deviation,
- The preservation of privacy, to the extent possible and permitted by law,
- Petition to request that any Ohio University representative participating in the grievance process be recused on the basis of demonstrated bias and/or conflict of interest,
- Be informed of supportive measures, as available and appropriate and without fee or charge, whether a formal report has or has not been filed, and to have supportive measures remain private, provided privacy does not impair Ohio University's ability to provide them,
- Request reasonable accommodations due to disability,
- Timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions,
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional complainants, unsubstantiated allegations) and any adjustments needed to clarify potentially implicated policies,
- Not participate in the grievance process with the understanding that it may proceed without their participation,
- Have an advisor of their choice, who may be, but is not required to be, an attorney, present during any meetings, interviews, or hearings. The role of an advisor is outlined in Appendix B of the Sexual Harassment and Other Sexual Misconduct Grievance Process,

- Have an advisor appointed to them by the University, if they do not have one, for the purposes of questioning the other party and witnesses at the hearing,
- Have up to two support people present during any meetings or interviews that may occur as part of the grievance process. Support people may not be present at a hearing and may not be witnesses in the matter,
- Receive written advance notice of any meetings in which they are entitled to participate and the purpose of those meetings,
- A fair opportunity to provide the investigators with their account of the alleged misconduct and to have that account be on the record,
- Provide relevant statements, evidence, and information as part of the investigation,
- Ask the investigators to identify and question relevant witnesses, including expert witnesses,
- Know the names of all witnesses that are contacted as a part of the investigation,
- Provide the investigators a list of questions that, if deemed relevant by the investigators, may be asked of any party or witness,
- Secure electronic access to the draft investigative report and directly related evidence to be made available to the parties and their advisors for a ten (10) calendar day review and comment period so that each party may meaningfully respond to the evidence in writing,
- Secure electronic access to the final report at least ten (10) calendar days prior to a hearing, as well as, access to a file of any directly related evidence that was not deemed relevant and was, therefore, not included in the report,
- Speak or not speak as a part of the grievance process with the understanding that choosing to not answer a question asked by the other party's advisor and deemed relevant by the hearing chair during the hearing will result in the hearing panel not being able to consider statements made by the party,
- Question witnesses that participate in the hearing through their advisor,
- Be present, either in person or via video technology, during all testimony given and evidence presented during the hearing,
- Have incidents not directly related to the possible violation, unless they evidence a pattern, and inadmissible prior sexual history excluded by the hearing chair,
- The preponderance of the evidence as the standard of proof to be used to make a finding after an objective evaluation of all relevant evidence,

- Have the opportunity to submit an impact statement for consideration by the hearing panel following a determination of responsibility for any allegation, but prior to sanctioning,
- Promptly receive a written notice of outcome containing the finding(s) and sanction(s) and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties,
- File a written appeal to be reviewed and decided by an appeal officer, and
- Be informed in writing of when a decision by Ohio University is considered final and any changes to the sanction(s) that occur before the decision is finalized.

## **Appendix B:** **Information Regarding Advisors**

The parties may each have an advisor of their choice present with them for all meetings, interviews, and hearings within the grievance process, if they so choose. The parties may select whoever they wish to serve as their advisor as long as the advisor is eligible and available. "Available" means the party cannot insist on an advisor who simply doesn't have inclination, time, or availability. Also, the advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Choosing an advisor who is also a witness in the grievance process creates potential for bias and conflict of interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing panel.

### A. Who Can Serve as an Advisor

The advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the grievance process. The parties may choose advisors from inside or outside of the Ohio University community.

Parties have the right to choose not to have an advisor in the initial stages of the grievance process, prior to the hearing.

### B. The Advisor's Role in Meetings and Interviews

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

### C. Advisors in Hearings/Ohio University Appointed Advisor

Under U.S. Department of Education regulations under Title IX, the parties are not permitted to directly question each other or any witnesses. Instead, each party's advisor must question the other party and the witnesses on their behalf. If a party does not have an advisor for a hearing, Ohio University will appoint a trained advisor for the limited purpose of conducting any questioning of the other party and witnesses.

A party may reject this appointment and choose their own advisor, but they may not proceed without an advisor. If the party's advisor will not conduct questioning, Ohio University will appoint an advisor who will do so, whether or not the party has chosen to participate in the hearing. Extensive questioning of the parties and witnesses may also be conducted by the hearing panel during the hearing.

### D. Advisor Violations of Ohio University Expectations

All advisors are subject to the same University policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on

behalf of the advisee to the investigator(s) or hearing panel, except when asking questions of the other party and witnesses during a hearing.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the grievance process. Although the advisor generally may not speak on behalf of their advisee, the advisor may consult with their advisee, either privately as needed, or by quietly conferring or passing notes during any grievance process meeting, interview, or hearing. For longer or more involved discussions, the parties and their advisors should ask for breaks to allow for private consultation.

Any advisor who oversteps their role as defined by this policy will typically be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting or hearing will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the advisor's non-compliance and future role.

#### E. Sharing Information with the Advisor

Ohio University expects that the parties may wish to have the University share documentation and evidence related to the allegations with their advisors. There is an expectation of privacy around information and evidence shared with the parties during the investigation and hearing; however, parties may share this information directly with their advisor, if they wish. Doing so may help the parties participate more meaningfully in the grievance process. (The parties have discretion to share their own knowledge and evidence with others if they so choose. Parties are encouraged to discuss any sharing of information with their advisors before doing so.)

Parties may also sign a consent form that authorizes Ohio University to share such information directly with their advisor. The parties must complete and submit this form to the Title IX Coordinator or the investigators before the University is able to share records with an advisor.

If a party requests that all communication be made through their attorney advisor, Ohio University will comply with that request at the discretion of the Title IX Coordinator.

#### F. Privacy of Records Shared with the Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by Ohio University. The Title IX Coordinator may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by Ohio University's privacy expectations.

#### G. Expectations of an Advisor

Ohio University generally expects an advisor to adjust their schedule to allow them to attend grievance process meetings when planned, but may change scheduled meetings to accommodate an advisor's inability to attend, if doing so does not cause an unreasonable delay.

Ohio University may also make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### H. Expectations of the Parties with Respect to Advisors

A party may elect to change advisors during the grievance process and is not obligated to use the same advisor throughout. The parties are expected to inform the investigator(s) of the identity of their advisor when the advisor first participates with the party and to provide timely notice to the investigators if they change advisors at any time during the grievance process.

It is assumed that if a party changes advisors, consent to share information with the previous advisor is terminated, and a release for the new advisor must be secured. Parties are expected to inform the investigators of the identity of their hearing advisor at least fifteen (15) calendar days before the hearing so that the advisor may be properly listed in the notice of hearing that must be sent to the parties no less than ten (10) calendar days before the hearing.

For parties who are entitled to union representation, the University will allow the unionized employee to have their union representative (if requested by the party) as well as an advisor of their choice present for all grievance process meetings, interviews, and hearings. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two advisors. Witnesses are not permitted to have union representation or advisors in grievance process interviews, meetings, or hearings.

## **Appendix C: Emergency Removal Process**

Under specific circumstances, Ohio University may remove a student respondent from the University's education program or activity, in part or entirely, on an emergency basis. Before an emergency removal is enacted, the Title IX Coordinator conducts an individualized safety and risk analysis, in conjunction with the Dean of Students and the Ohio University Police Department.

This risk analysis will determine if there is an immediate threat to the physical health and safety of any student or other individual arising from the allegations of sexual harassment or other sexual misconduct, and if that immediate threat justifies the emergency removal of the respondent from the University's education program or activity. The Title IX Coordinator will also consider the applicability of disability laws to the removal decision.

An emergency removal is not tantamount to a determination of responsibility or a sanction. Ohio University may remove a respondent on an emergency basis whether the grievance process is underway or not.

The Title IX Coordinator will implement the least restrictive emergency removal actions possible in light of the circumstances and safety concerns. These actions may include, but are not limited to, interim suspension from University premises and activities (including class attendance), removal from University housing, restriction of access to particular areas of campus, and suspension of participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate athletics.

In all cases where an emergency removal is imposed, the student respondent will be issued a Notice of Removal letter. Notice will be made in writing and will be emailed to the respondent's Ohio University email account. At the discretion of the Title IX Coordinator, an alternate means of delivering the Notice of Removal letter may be utilized if circumstances warrant. Once emailed, or otherwise sent or given in person, notice will be presumptively delivered.

Upon delivery of the Notice of Removal letter, the respondent may request a review meeting with the Title IX Coordinator where the respondent may show cause why the removal should not be implemented or should be modified.

Requests for a review meeting with the Title IX Coordinator must be made within three (3) business days of delivery of the Notice of Removal. The review meeting will be held as soon as reasonably possible after the request is made by the respondent. If the respondent does not request a meeting within the three (3) business days, objections to the emergency removal will be deemed waived.

The review meeting with the Title IX Coordinator is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. The respondent may be accompanied by the advisor of their choice at the review meeting. The complainant and their advisor of choice may be permitted to participate in the meeting if the Title IX Coordinator determines it is equitable to do so.

At the review meeting with the Title IX Coordinator, the respondent will be allowed to present their position regarding why they believe the emergency removal should not be implemented or should be modified.

The Title IX Coordinator will prepare a written determination/response to the review meeting within two (2) business days of the meeting taking place.

The Title IX Coordinator has sole discretion to implement or stay an emergency removal and to determine the conditions and duration. The Title IX Coordinator's decision is final; there is no appeal process for an emergency removal decision.

If the Sexual Harassment and Other Sexual Misconduct Grievance Process does not move forward following an emergency removal, the emergency removal will be rescinded and the party notified promptly.

Violation of an emergency removal under University Policy 03.004 will be grounds for separate discipline, which may include actions up to or including expulsion from the University.

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