



Ohio University
Student Code of Conduct
Effective August 24, 2017

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Part A: Mission

Ohio university, including its regional campuses and online programs, holds as its central purpose the intellectual and personal development of its students. Distinguished by its rich history, diverse campus, international community, and beautiful Appalachian setting, Ohio university is also known as well for its outstanding faculty of accomplished teachers whose research and creative activity advance knowledge across many disciplines. It is this purpose that provides the aspirational basis for the “Student Code of Conduct”.

As we like to remind students, they are Bobcats no matter where they are. This means that each member of the OHIO community is responsible for their behavior, both on and off campus. When occasions arise where members of the community engage in behavior that violates the prohibited conduct listed in Part D, the community standards process will be initiated. This process exists to protect the interest of the community and to challenge those whose behavior is not in accordance with our expectations of members of the Ohio university community. The university fully recognizes the right of all students to seek knowledge, debate, and freely express their ideas. Discourse and disagreement are fundamental components of any academic endeavor, and students will not be subject to disciplinary action for their lawful expression of ideas.

Sanctions implemented through the process are designed to give students the opportunity to reflect on their choices, challenge their ethical decision-making, and aid them in adjusting their behavior to become congruent with our community expectations. Being a member of the Ohio university community is a privilege, and the community standards process will determine if a student’s conduct warrants that they should no longer share in that privilege.

Part B: Scope of the Code

The “Student Code of Conduct” applies to the conduct of individual students, student organizations and student groups, both undergraduate and graduate, including students enrolled in the heritage college of osteopathic medicine, at regional and extension campuses, through the college credit plus program, and in distance education programs, such as e-learning. The right of all students to seek knowledge, debate and freely express their ideas is fully recognized by the university. The prohibited conduct described in Part D applies to student behavior and will not be used to impose discipline for the lawful expression of ideas.

The “Student Code of Conduct” applies to all students, student organizations and student groups, regardless of whether or not the alleged behavior occurred on or off campus. Further, the “Student Code of Conduct” may also be applied to behavior conducted online, via e-mail or through other electronic mediums. Ohio university does not regularly search for this information, but may take action if such information is brought to the attention of University officials.

The community standards process may be initiated when a student is charged with conduct that potentially violates both civil/criminal law and University policy, without regard to the pendency of litigation in court or criminal arrest and prosecution. This includes instances where a current student is

charged with serious violations of civil or criminal law, regardless of when that violation occurred. The community standards process may be carried out prior to, simultaneously with, or following criminal proceedings off campus. Determinations made and sanctions imposed under the “Student Code of Conduct” 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.

Part C: Definition of Terms

The below definitions apply to the community standards process. For definitions and other information related to the “Student Sexual Misconduct, Relationship Violence, and Stalking Process”, please see the Appendix B.

1. **Advisor** – An Ohio university employee or student selected by the complainant or respondent to assist them throughout the community standards process. This advisor may advise and assist the complainant or respondent in the preparation for any meetings or hearings that may occur; accompany the complainant or respondent through all community standards process meetings and hearing; and to actively participate in the proceedings to the extent desired by the complainant or respondent. Advisors may not be witnesses in the matter at hand, and they may not provide direct information or testimony at any point in the process. Advisors are not provided as part of the community standards process, and complainants and respondents wishing to use an advisor are responsible for obtaining one.
2. **Campus** – Property or buildings owned, leased, operated, controlled or managed by Ohio University, including all regional campuses, regardless of their location.
3. **Complainant** – Person who was subject to alleged misconduct as described in the “Student Code of Conduct”. There may be more than one complainant for an incident.
4. **Hearing Authority** – Any person, or persons, authorized by the director of the office of community standards and student responsibility, or designee to make findings as to whether a student has violated the prohibited conduct part of the “Student Code of Conduct”. This includes but is not limited to housing and residence life staff, office of community standards and student responsibility staff, and members of the university hearing board.
5. **Hearing Board Advisor** – A staff member from the office of community standards and student responsibility designated to advise members of the university hearing board during university hearing board hearings.
6. **Hearing Board Chair** – A member of the university hearing board who has been designated by the hearing board advisor to serve as the chairperson for a university hearing board hearing.
7. **Hearing Officer** – A hearing authority who has been designated to preside over an administrative hearing and make findings as to whether a student has violated the prohibited conduct part of the “Student Code of Conduct”.
8. **Members of the University Community** – Refers, collectively and individually, to faculty, staff, students, trustees, volunteers (e.g., advisors), organizations, groups, alumni, and contractors of the university or any of its campuses, facilities, programs, or events.

9. **Preponderance of Evidence** – Standard of proof used by the hearing authority. Preponderance of evidence means that the statements and information presented in the matter must indicate to a reasonable person that it is more likely than not that the respondent committed a violation.
10. **Referral** – Document which contains the basis for the alleged violation of the prohibited conduct part of the “Student Code of Conduct”, including but not limited to police reports or incident reports submitted to the office of community standards and student responsibility.
11. **Referring Party** – Person or office which reported the alleged violation of the prohibited conduct part of the “Student Code of Conduct” to the office of community standards and student responsibility.
12. **Respondent** – Student, student group, or student organization whom it is alleged committed a violation or violations of the “Student Code of Conduct”. There may be more than one respondent for an incident. In the cases of student groups or student organizations, the president, director, or other member of leadership will participate in the student conduct process on behalf of the group or organization.
13. **Student** – Any person from the time they are admitted to Ohio university up through the date of graduation. This includes, but is not limited to, new students at orientation, persons not currently enrolled but who are still seeking a degree from Ohio university, persons currently under suspension, and any other person enrolled in a credit earning course offered by Ohio university, including students enrolled in the college credit plus program. For purposes of exercising jurisdiction for university discipline, it also includes any person who has graduated from Ohio university if the university determines that his/her graduation or receipt of credit may have involved misconduct while he/she was working toward a degree as well as currently enrolled students who have been charged with serious violations of civil or criminal law, regardless of when that violation occurred.
14. **Student Groups** - A number of persons who are associated with the university and each other, but who have not registered, or are not required to register, as a student organization (included but not limited to athletic teams, musical or theatrical ensembles, academic or administrative units, clubs not registered as a student organization).
15. **Student Organization** - A number of persons who are associated with one another and have registered with the university as a student organization, including but not limited to clubs, club sports, or fraternities and sororities.
16. **Support Person** – Any person chosen by either the complainant or the respondent to provide support to them throughout their interactions with CSSR. This person does not actively participate in the process, but can be present at meetings and hearings to provide support to the complainant or respondent. The support person cannot be a witness in the matter in question.
17. **University** – Ohio university, including all of its regional campuses and online programs.
18. **University Appeal Board**– A panel of three individuals selected to review appeals as described in Part 8. The panel will be made up of three individuals from the university hearing board: either one faculty member, one staff member, and one student or one faculty or staff member, and two students.

19. **University Facility** – Any building or other facility, including an athletic or recreational field, that is owned and operated by the university.
20. **University Hearing Board**– A panel of three individuals who are responsible for hearing matters involving alleged violations of the prohibited conduct part of the “Student Code of Conduct” when the director, associate director, assistant director, or hearing officer in CSSR has determined that suspension or expulsion may be appropriate sanctions if the respondent is found responsible for the charge(s). A hearing board is composed of two students and one faculty or staff member.
21. **University Official** – Any person employed by the university (including but not limited to faculty, staff, administration, and student staff members) acting within the scope of their job duties.
22. **Witness** – Person who is requested to participate in an investigation or a hearing because they may have information about the alleged misconduct. Witness names may be supplied by the complainant, respondent, or others with knowledge of the matter. All witnesses requested to appear at a hearing by CSSR will be considered university witnesses.

Part D: Prohibited Conduct

The university considers the behavior described in the following sub-parts as inappropriate for members of the Ohio university community. These rules apply to all Ohio university students, student groups, and student organizations for behavior that occurs both on and off campus. The right of all students to seek knowledge, debate and freely express their ideas is fully recognized by the university.

1. Academic Misconduct

- a. Plagiarism: Using another’s work, in whole or in part, without acknowledging the source and presenting that material as one’s own academic work. This includes, but is not limited to:
 - i. Reproducing another person's work, whether published or unpublished (this also includes using materials from companies that sell research papers)
 - ii. Using another's ideas or written words without properly acknowledging the source:
 - a. Quoting a source word for word without providing quotation marks and citations.
 - b. Copying words or ideas from a source without appropriate citations.
 - iii. Submitting work that is substantially identical to another source in content and/or organization without appropriately citing the source.
 - iv. Using other intellectual property in a work without appropriate citations, permissions, or rights (when applicable). Intellectual property includes but is not limited to images, videos, software programs, computer code, or pieces of music.
- b. Cheating: Any attempt by a student to answer questions on a test, quiz, or assignment by means other than his or her own knowledge, without authorization from the instructor resulting in unfair academic advantage. This includes, but is not limited to:

- i. Using the textbook or other materials, such as a notebook, not authorized for use during an examination.
 - ii. Using technology (i.e. cell phones, laptop computers, social media, text messages, etc.) to aid in the completion of work when not permitted to do so.
 - iii. Observing or copying the work of another student or allowing another student to plagiarize, copy, or observe one's own work.
 - iv. Using unauthorized material during a test, notes, formula lists, notes written on clothing, etc.
 - v. Taking a quiz, exam, or similar evaluation in place of another person.
 - vi. Providing or requesting assistance from another person in a manner prohibited by the instructor.
 - vii. Using a laboratory, computer, or calculator inappropriately or without authorization.
 - viii. Changing material on a graded exam and then requesting a re-grading of the exam.
 - ix. Acquiring unauthorized knowledge of an examination or any part of an examination.
 - x. Signing in any person other than one's self for class attendance.
- c. Multiple Submissions: Submitting the same academic work for credit more than once unless specifically authorized by the instructor of record.
 - d. Fabrication or Falsification: Knowingly using and/or presenting invented or fabricated information, falsified research, or other findings.
 - e. Misrepresentation: Misrepresenting facts in an attempt to gain an academic advantage. This includes, but is not limited to:
 - i. Providing false or misleading information in an attempt to receive an extension or postponement of a test, quiz, or other assignment
 - ii. Providing false or misleading information in an attempt to receive a re-take of an exam or a re-submission of an assignment
 - iii. Providing false or misleading information as part of an academic probation/dismissal appeal process.

Please note: An instructor may impose a grade penalty for academic misconduct and/or file a disciplinary referral.

2. Possessing/Providing False and Misleading Information

- a. Furnishing false information to university officials or law enforcement officers acting within the scope of their job duties.
- b. Forgery, alteration, or misuse of university documents and/or records.
- c. Possession, use and/or attempted use of false identification.
- d. Manufacture, distribution, or sale of false identification.
- e. Transferring, lending, borrowing or altering university identification.

3. Alcoholic Beverages Violation

- a. Use and/or possession of alcoholic beverages except as expressly permitted by law and University Policy 24.001. This includes, but is not limited to, the underage possession or consumption of alcohol.
- b. Selling, distributing, or furnishing of alcoholic beverages except as expressly permitted by law and University Policy 24.001. This includes, but is not limited to providing alcohol to a person under the legal drinking age.
- c. Furnishing or causing to be furnished any alcoholic beverage to any person in a state of noticeable intoxication.
- d. Misconduct under the influence of alcohol including but not limited to operating a vehicle under the influence, disorderly conduct by intoxication, and public intoxication.
- e. Failure of a student organization to take all necessary steps to ensure that no person under the legal drinking age possesses alcoholic beverages at functions it sponsors or within any property or transportation it owns, operates, and/or rents.

4. Controlled Substance and/or Drug Violation

- a. Use and/or possession of marijuana or substances derived from marijuana, except as expressly permitted by law.
- b. Use and/or possession of other controlled substances except as expressly permitted by law.
- c. Use and/or possession of drug related paraphernalia except as expressly permitted by law.
- d. The abuse, misuse, sale, or distribution of prescription or over the counter medication.
- e. Manufacture, distribution, sale and/or offer for sale of any controlled substance or drug, except as expressly permitted by law.
- f. Intentionally or recklessly inhaling or ingesting substances (e.g. nitrous oxide, glue, paint, etc.) that will alter a person's state of mind.

5. Disruptive Conduct

- a. Disrupting and/or interfering with university operations including but not limited to obstruction of teaching, research and/or administrative activities which occur on or off campus.
- b. Causing, inciting, or participating in any disturbance that presents a clear and present danger to others, causes physical harm to others, or damage and/or destruction of property, including but not limited to participating in or inciting a riot.
- c. Failure to comply with lawful orders of university officials or law enforcement officers acting within the scope of their job duties.
- d. An act which deliberately interferes with the freedom of speech of any member or guest of the university community.
- e. Misuse and/or tampering with any university safety equipment including but not limited to firefighting equipment, fire alarms, smoke detectors, blue light phones, etc.
- f. Public Urination
- g. Election Tampering: Tampering with the election of any Ohio university recognized student organization, including the student senate.

6. Harmful Behavior

- a. Physical harm or threat of physical harm to any person.
- b. Harassment: Unwelcome conduct (including written or electronic communication) that is so severe, pervasive, and objectively offensive that it substantially interferes with the ability of a person to work, learn, live or participate in, or benefit from the services, activities, or privileges provided by the university. In no event shall this provision be used to discipline a student for speech protected by the first amendment of the United States.
- c. Discrimination: Unwelcome conduct (including written or electronic communication) against another individual that is based upon an individual protected category (as defined in Ohio University Policy 40.001) that is so severe, pervasive, and objectively offensive that it substantially interferes with the ability of a person to work, learn, live or participate in, or benefit from services, activities, or privileges provided by the university. In no event shall this provision be used to discipline a student for speech protected by the first amendment of the United States.
- d. Reckless but not accidental action that poses a reasonable risk of physical harm to others.

7. Sexual Misconduct, Relationship Violence and Stalking

- a. Sexual Harassment by Quid Pro Quo: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.
- b. Sexual Harassment by Hostile Environment: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.
- c. Non-Consensual Sexual Intercourse: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.
- d. Non-Consensual Sexual Contact: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.
- e. Sexual Exploitation: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.
- f. Domestic violence: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.
- g. Dating Violence: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.
- h. Stalking: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.
- i. Retaliatory Harassment: See University Policy 03.004: Sexual Misconduct, Relationship Violence and Stalking.

8. Hazing

- a. Recklessly or intentionally endangering the mental, emotional, or physical health and/or safety of a student: See University Policy 23.010: Hazing.
- b. Brutality of a physical nature: See University Policy 23.010: Hazing.
- c. Coerced consumption: See University Policy 23.010: Hazing.

- d. Acts intended to cause mental stress: See University Policy 23.010: Hazing.
- e. Coerced activities: See University Policy 23.010: Hazing.
- f. Acts of sexual misconduct, relationship violence, or stalking, as defined by University Policy 03.004.

9. Theft

- a. Taking without consent the property or services of the university, another person, business, or organization.
- b. Possessing property that can reasonably be determined to have been stolen from the university, another person, business, or organization.

10. Damage to Property

- a. The destruction of, or damage to, public or private property.
- b. Reckless but not accidental action that poses a reasonable risk of damage or destruction of public or private property.

11. Use or Possession of Weapons and/or Dangerous Materials

- a. Possession, storage or use of weapons including but not limited to firearms, compressed-air guns, pellet guns, etc. on university owned or affiliated property except as expressly permitted by law.
- b. Possession, storage or use of dangerous materials including but not limited to fireworks, explosives or chemicals which are corrosive or explosive on university owned or affiliated property except as expressly permitted by law.
- c. Any object not mentioned above used to intimidate, threaten, harm, and/or provide force can be considered a weapon under this provision.
- d. Use of a weapon to intimidate, threaten, or harm another person.

12. Misuse of Keys and/or Access Device

- a. Unauthorized use, distribution, duplication, or possession of any key or other access device issued for any university building, structure, room or facility.

13. Misuse of the University Disciplinary Process

- a. Falsification, distortion, or misrepresentation of information during the community standards process, including filing a false complaint against another person.
- b. Hindering or interfering with the community standards process by failing to abide by the notice from a university official to appear for a student conduct meeting or hearing.
- c. Intimidation or retaliation in response to an individual's participation in, or use of, the community standards process.

14. Trespass or Misuse of Facilities

- a. Misuse or unauthorized use of any facility.
- b. Unauthorized entry or attempted entry into any facility.

15. Violation of Ohio University Student Housing Handbook

- a. Violation of any published housing and residence life policy, rule and/or regulation.

16. Violation of University Policy

- a. Violation of any university policy and/or procedure of Ohio university.

17. Violation of Law

- a. Conduct that would constitute a violation of any local, state, and/or federal law, including violation of the Code of Ordinances of the city of Athens.

Part E: Community Standards Process

The following processes apply to those involved in matters being addressed by the community standards process. For information regarding the process for resolving a sexual misconduct allegation, please see Appendix B.

1. **Referrals** – Members of the Ohio university community may file a student conduct referral alleging that a student, student group, or student organization has violated the prohibited conduct outlined in the “Student Code of Conduct”. The office of community standards and student responsibility (CSSR) may also receive referrals from external entities, including law enforcement and members of the general public. Upon receipt of a referral, the director of the office of community standards and student responsibility, or designee, may review all relevant information and may consult with any appropriate parties regarding the incident in question. It is the responsibility of the director of the office of community standards and student responsibility (CSSR) to determine the appropriateness of the referral as well as how the referral will be processed. Upon receipt of a referral and if appropriate, interim measures (including presidential interim suspension), may be implemented as outlined in Part I.
2. **Hearing Authorities** – Hearing authorities are responsible for processing cases involving alleged violations of prohibited conduct as described in the “Student Code of Conduct”. The director of CSSR (or designee) is responsible for determining the appropriate hearing authority for each matter. The following are hearing authorities:
 - a. **CSSR Staff Members** – Appropriate staff members from the office of community standards and student responsibility are responsible for hearing matters involving alleged violations of the prohibited conduct part of the “Student Code of Conduct” and serve to advise both the complainant and the respondent regarding procedures relating to the “Student Code of Conduct”. They have the authority to conduct community standards conferences, to serve as a hearing officer in an administrative hearing, and to serve as an advisor to the university hearing board and the university appeal board. They have the authority to impose the full range of sanctions under the “Student Code of Conduct”, up to and including disciplinary suspension and disciplinary expulsion.
 - b. **Housing and Residence Life Staff Members** – Appropriate staff members from housing and residence life are responsible for hearing matters involving alleged violations of the prohibited conduct part of the “Student Code of Conduct” and serve to advise the respondent and complainant (if applicable) regarding procedures relating to the “Student Code of Conduct”. They have the authority to conduct community standards conferences and to serve as a hearing officer in an administrative hearing. They have the authority to impose sanctions under the “Student Code of Conduct” up to and including disciplinary probation.

- c. **University Hearing Board** – The university hearing board (UHB) is responsible for hearing matters involving alleged violations of the prohibited conduct part of the “Student Code of Conduct” when an appropriate CSSR staff member has determined that disciplinary suspension or disciplinary expulsion may be appropriate sanctions if the respondent is found responsible for the charge(s). A hearing board is composed of two students and one faculty member or administrator. The UHB is advised by a CSSR staff member and does not directly impose sanctions under the “Student Code of Conduct”. In instances where the respondent is found in violation, the UHB will make a recommendation regarding sanctions to the dean of students or designee, who will then impose any sanctions.

3. **Community Standards Conference**

Any student, student group, or student organization (hereinafter referred to as the respondent) who has been charged with an alleged violation of the prohibited conduct part of the “Student Code of Conduct” will first be scheduled for a community standards conference with the hearing authority assigned to review the allegation. The respondent will be notified in writing of the date, time, and location of the community standards conference. Written notification will include:

- a. the specific charges pending against the respondent;
- b. a brief summary of the referral;
- c. statement of rights and responsibilities; and
- d. if applicable, a statement notifying the respondent that the alleged conduct is significant enough that they may face suspension or expulsion if the charge is substantiated.

The community standards conference is the first step in the community standards process, and serves to provide the respondent with the opportunity to discuss the allegations that led to the referral. The respondent will receive more information regarding the community standards process, clarification of their rights and options, the ability to inspect and review all relevant information as well as a range of potential sanctions for the violation in question should the charges be substantiated. After a discussion regarding the incident and review of relevant information, the respondent will have an opportunity to accept or deny responsibility for the charge(s). If the respondent accepts responsibility for the charge(s), the hearing authority will sanction the respondent as part of the community standards conference.

If the respondent denies responsibility for one or more of the charges, the hearing authority will proceed to schedule a hearing for the student. If the hearing authority has determined that should the charge(s) be substantiated, disciplinary suspension or disciplinary expulsion are not appropriate sanctions, the respondent will be scheduled for an administrative hearing. If the hearing authority determines that disciplinary suspension or disciplinary expulsion are potential sanctions, the respondent may choose either an administrative hearing or a university hearing board.

The respondent must attend the community standards conference. If the respondent fails to appear for two scheduled community standards conferences and the absence is not excused, the conference will proceed in their absence. In these instances, if the hearing authority has determined that disciplinary suspension or disciplinary expulsion are not potential sanctions should the charge(s) be substantiated, the matter will be resolved in the community standards conference based on an evaluation of the evidence available to the hearing authority at the time of the scheduled conference. If the hearing authority determines that disciplinary suspension or disciplinary expulsion are potential sanctions should the charge(s) be substantiated, the respondent may be scheduled for an administrative hearing and sent notification of that hearing. Alternatively, a hold may be placed against the student's registration until such time as the community standards process is complete. If a hearing is scheduled, the date for a hearing will be determined within a reasonable period of time following the community standards conference. Hearing notification shall include:

- a. the date, time, and location of the hearing;
- b. the specific charges against the respondent;
- c. a statement of rights and responsibilities; and
- d. in instances of administrative hearings only, the name of the hearing officer.

4. Hearings

The purpose of a hearing is to provide an equitable forum for the review of the available information regarding an alleged incident of misconduct. The hearing authority will decide by the preponderance of evidence whether or not the respondent is found responsible for the charge(s). All hearings are closed to the public, with the exception of advisors and/or support persons for the complainant and respondent. All parties directly participating in the hearing (the respondent, complainant, and staff member from CSSR or housing and residence life who is presenting the information) may remain present the entire time, excluding deliberations.

a. Types of Hearings

- i. **Administrative Hearing** – Administrative hearings are presided over by a single hearing officer. The hearing officer will be someone other than the staff member who conducted the original community standards conference. If the respondent fails to appear at a scheduled administrative hearing and the absence is not excused, the hearing may proceed in the respondent's absence or may be rescheduled at the discretion of the hearing officer.
- ii. **University Hearing Board Hearing** – University hearing board hearings are presided over by members of the university hearing board. Each university hearing board hearing will have a hearing board chair. The chair is responsible for keeping the proceedings moving forward. If the respondent fails to appear at a scheduled university hearing board and the absence is not excused, the hearing may proceed in the respondent's absence or may be rescheduled at the discretion of the chair. Each university hearing board is assigned a hearing board advisor. The role of the advisor is to ensure the community standards process is adhered to and to answer procedural questions posed by any party

during the hearing. The hearing board advisor will also keep the proceedings focused on issues relevant to the specific allegations. The hearing board advisor will not participate in a determination of a finding or sanction. However, the board advisor may be summoned by university hearing board members during deliberations to answer questions regarding the community standards process.

b. Hearing Procedures

Items i-iii will generally proceed in the order listed below, though the hearing authority reserves the right to adjust the order as appropriate or necessary.

i. Guidelines

1. The hearing authority will explain the respondent's rights and responsibilities, and, if applicable, the complainant's rights and responsibilities.
2. The hearing authority (in conjunction with the board advisor, if applicable), is responsible for assuring that these rights as well as the process described in this Part are adhered to during the hearing.
3. The respondent or the complainant may ask for the removal of a hearing authority by providing written or verbal evidence of bias.
 - a. In cases before a hearing board, the charge of bias is made to the chairperson who will determine whether it is valid. If the charge of bias is against the chairperson, the hearing board advisor shall decide whether it is valid. If bias is found, the hearing will be rescheduled.
 - b. In an administrative hearing, the charge of bias against the hearing authority can be made to the director of CSSR, prior to the hearing. The director will decide if the charge is valid. If bias is found, the director will assign a new hearing authority to conduct the hearing.
4. The hearing authority may ask questions of any party at any time throughout the hearing.
5. The hearing authority is responsible for determining the relevancy of questions asked during a hearing. The hearing authority may deem certain questions irrelevant and not allow them to be asked. In university hearing board hearings, the hearing board advisor may assist the hearing chair in those determinations.
6. The hearing authority may exclude persons from the hearing if they are disruptive, or postpone the hearing because of disruptive behavior of participants or observers.

ii. Introduction

1. Each party in the room will introduce themselves and explain their role in the hearing.
2. The hearing authority will ask the respondent to briefly introduce themselves and explain why they have requested the hearing.

iii. Presentation of Information

1. Following the respondent's introduction, a staff member from either CSSR or housing and residence life will provide the hearing authority with a detailed summary of the incident and, if applicable, any subsequent investigation.
2. If there is a complainant, the complainant will then have an opportunity to provide the hearing authority with a summary of their role and perspective on the incident.
3. The hearing authority will then ask the respondent to describe their involvement in the matter at hand as it pertains to the charges being considered in the hearing. The hearing authority may question the respondent at this time, followed by the staff member from CSSR or housing and residence life and the complainant (if applicable).
4. The staff member from CSSR or housing and residence life will then present any relevant witnesses or documentary information to the hearing authority. The staff member from CSSR or housing and residence life may ask questions of any witness presented. The hearing authority, respondent, and complainant (if applicable) will each have the opportunity to ask questions regarding the information presented.
5. The complainant (if applicable) will then present any relevant witnesses or documentary information to the hearing authority. The complainant may ask questions of any witness presented. The hearing authority, respondent, and staff member will each have the opportunity to ask questions regarding the information presented.
6. The respondent will then present any relevant witnesses or documentary information to the hearing authority. The respondent may ask questions of any witness presented. The hearing authority, complainant (if applicable), and staff member will each have the opportunity to ask questions regarding the information presented.
7. The staff member from CSSR or housing and residence life will have an opportunity to make a summary statement.
8. The complainant, if applicable, will have an opportunity to make a summary statement.
9. The respondent will have an opportunity to make a summary statement.

iv. Deliberation and Finding

1. The hearing authority will go into closed session to determine by the preponderance of evidence whether the respondent will be found in violation of the charges pending in this matter. University hearing boards determine findings by majority vote.
2. The hearing will re-convene for the announcement of the finding. If the respondent is not found responsible for the violation, the case will be

dismissed. If the respondent is found responsible for a violation of one or more of the pending charges, the hearing will proceed to sanctioning.

v. Sanctioning

1. The respondent will be offered an opportunity to speak on their own behalf and to present character witnesses or written references for consideration in determining a sanction.
2. The complainant, if applicable and present, will be given the opportunity to present a verbal impact statement. If there is a complainant who has chosen not to attend the hearing but has provided an impact statement to the staff member from CSSR or housing and residence life, it will be given to and read aloud by the hearing authority. Any impact statement must be presented to the hearing authority only after a finding of violation has been made in the matter.
3. The staff member from CSSR or housing and residence life will give an overview of the respondent's disciplinary history, if any. The respondent will be given the opportunity to respond to the overview.
4. If the respondent was presented with a possible sanction during their community standards conference, the staff member from CSSR or housing and residence life will share that proposed sanction with the hearing authority.
5. The hearing authority will consider the following in determining a sanction:
 - a. statements and evidence presented at the hearing;
 - b. seriousness of the violation;
 - c. the complainant's oral or written statement of impact;
 - d. the respondent's character information;
 - e. prior disciplinary record of the respondent; and
 - f. disciplinary precedent.
6. The hearing authority may ask follow up questions of the staff member from CSSR or housing and residence life or the respondent regarding any of the above information.
7. The hearing authority will go into closed session to determine a sanction.
8. The hearing will reconvene for the announcement of the sanction.
 - a. In university hearing board hearings, the sanction is recommended to the dean of students or designee, who will make the final decision. While normally the Board's recommendation will be the sanction imposed, the dean of students or designee may impose a different sanction. The dean of students or designee will send the student written notification of the decision.

- b. In administrative hearings, the sanction is imposed by the hearing officer. The hearing officer will send the student written notification of the decision.

5. Presenting a Case Using University Legal Counsel

In rare instances, the university may decide to formally present a student conduct case using legal counsel. In such cases, the respondent will be given adequate notice in order to seek legal counsel, if so desired. In these instances, the case will be heard by a university hearing board and the director of the office of legal affairs (or designee) will serve as a non-voting member of the hearing board.

Part F: Sanctions & Conditions of Sanction

1. **Sanctions** – Students, student organizations, and student groups of Ohio university are responsible for abiding by all Ohio university policies. When a respondent is found in violation of the prohibited conduct part of the “Student Code of Conduct”, appropriate disciplinary sanctions will be imposed. Sanctions are defined as follows:
 - a. **Reprimand** – Official notification of unacceptable behavior and violation(s) of the “Student Code of Conduct”. Any further misconduct may result in more serious disciplinary sanctions.
 - b. **Disciplinary Probation** – Sanction imposed for a designated period of time. Further violation of prohibited conduct as outlined in Part D may result in further disciplinary action up to and including disciplinary suspension or disciplinary expulsion. Periodic probationary meetings may also be required. All assigned conditions of sanction must be completed prior to the conclusion of disciplinary probation; otherwise the disciplinary probation will remain in effect.
 - c. **Disciplinary Suspension** – Sanction imposed for a designated period of time. During the period of suspension, a 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 under conditions approved by the director of the office of community standards and student responsibility. All assigned educational sanctions must be completed prior to the conclusion of disciplinary suspension; otherwise the disciplinary suspension will remain in effect.
 - i. Students who have been suspended from the university must petition for reenrollment through the director of the office of community standards and student responsibility. Reenrollment may be granted, with further probationary status, at the discretion of the director. Students must complete a re-enrollment form through the registrar and be in good academic standing with their college and be otherwise eligible to re-enroll in order to return to the university.
 - ii. Disciplinary suspension of a student organization or student group is a temporary revocation of University recognition. While an organization or group

- f. Reasonable access to inspect and review their own case file, which includes all information that would be used during the community standards process, to the extent permitted by confidentiality laws.
- g. Explanation of the resolution options available to them through the community standards process.
- h. To be presumed not responsible for a violation of prohibited conduct until found in violation by a preponderance of the evidence.
- i. To speak or not speak on their own behalf.
- j. The opportunity to respond to information used as part of the decision-making process.
- k. To deny responsibility for the charge(s) facing them and request a hearing.
- l. To question any witnesses that participate as part of a hearing.
- m. The right to appeal, as described in Part H.
- n. To waive any of the above stated rights provided that the waiver is made freely and in writing.

2. Rights of the Complainant – All complainants in the community standards process have the following rights:

- a. To pursue criminal or civil charges where a legal case exists (without University assistance).
- b. Explanation of the resolution options available to them through the community standards process.
- c. To be free from harassment and intimidation from respondents and others as they engage this process.
- d. The right to an advisor, as defined in Part C.
- e. The right to a support person, as defined in Part C.
- f. To request reasonable accommodations due to disability as outlined in Part (G)(3).
- g. To provide information for consideration during the community standards process, and to know the results of the process to the extent allowed under federal laws and university policies.
- h. The opportunity to appear at any hearing that may take place in order to provide relevant information.
- i. The opportunity to question any witnesses that participate as part of a hearing.
- j. The opportunity to submit a written impact statement for use in a hearing, even if the complainant chooses not to attend the hearing.

3. Responsibilities of Respondents, Complainants, and Witnesses – All respondents, complainants, and witnesses in the community standards process have the following responsibilities:

- a. To be honest and forthright in all information they provide during the community standards process. Presenting false and misleading information during this process is a violation of prohibited conduct as outlined in Part D.
- b. To attend all required meetings, conferences, or hearings, as scheduled, unless alternate arrangements are made in advance.

- c. To refrain from disruption of the hearing process. Disruption of this process is a violation of prohibited conduct as outlined in Part D.
- d. Complainants and respondents have the responsibility to prepare and present their entire case as well as secure the presence of any witnesses who will speak on their behalf.

4. Reasonable Accommodation for Students with Disabilities – Any student with a disability involved in this process has the right to request reasonable accommodation in order to ensure their full and equal participation. Students wishing to request reasonable accommodations should make those requests directly to the office of student accessibility services (SAS). Students do not have to disclose information about the complaint or charge to SAS to request reasonable accommodation, except to the extent that it may assist in the determination of reasonable accommodations. Accommodations are determined on an individual basis by SAS staff and implemented in consultation with the office of community standards and student responsibility. Examples of reasonable accommodation include but are not limited to sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, or assistance with transcribing questions during interviews or hearings.

Part H: Appeal Process

The following appeal processes apply to those involved in matters being addressed by the community standards process. For information regarding the appeal process regarding allegations of sexual misconduct, please see Appendix B.

1. A respondent that has accepted responsibility for, or was found in violation of prohibited conduct through the community standards process, may appeal the finding(s) and condition(s) of sanctions imposed within three business days after the receipt of written notification detailing the decision of the case. Upon reasonable request, the three-business day deadline may be extended by the director of the office of community standards and student responsibility.
2. In the appeal, the respondent must state the reason(s) for the appeal, the supporting facts, and the requested solution. An appeal is not a rehearing of the matter and cannot be filed simply because the student disagrees with the outcome. An appeal may only be submitted for one or more of the following reasons:
 - a. The sanctions and/or conditions of sanctions are extraordinarily disproportionate to the violation(s); and/or
 - b. A procedural defect occurred that significantly impacted that outcome of the hearing; and/or
 - c. Discovery of new and significant information that could have affected the outcome of the hearing and that was not known, or could not reasonably have been discovered and/or presented at the time of the hearing.
3. University Appeal Board

- a. All appeals will be heard by the university appeal board. The appeal board will meet in a closed session, within a reasonable period of time, and will either grant or deny the appeal by a majority vote.
 - b. If the student alleges that the sanction was extraordinarily disproportionate to the violation and the appeal board finds the sanctions extraordinarily disproportionate, the appeal board may reduce the sanction.
 - c. In considering appeals based on a procedural defect or the presence of new information, if the appeal board finds that there was a defect in the procedure or that new information was presented which was sufficiently substantial to the outcome, the appeal board will order a new hearing or remand the matter to the original hearing authority as appropriate.
 - d. The respondent will be notified of the outcome of their appeal in writing by the director of the Office of community standards and student responsibility.
4. Vice Presidential Appeal
- a. The respondent may request the vice president for student affairs or designee review a university appeal board decision if the university appeal board denies the appeal.
 - b. An appeal to the vice president for student affairs or designee must be submitted to the office of the vice president for student affairs within three business days after the receipt of written notification of the appeal board decision.
 - c. The appeal is limited to the grounds of the original appeal to the University Appeal Board, except in cases where the respondent is appealing on the basis of new evidence.
 - d. If the student alleges that the sanction was extraordinarily disproportionate to the violation and the vice president for student affairs or designee finds the sanctions to be extraordinarily disproportionate, the vice president for student affairs or designee may reduce the sanction.
 - e. In considering appeals based on a procedural defect or new information being presented, and the vice president for student affairs or designee finds that there was a defect in the procedure or that new information was presented which was sufficiently substantial to the outcome, the vice president for student affairs, or designee will order a new hearing or remand the matter to the original hearing authority as appropriate.
 - f. The respondent will be notified of the outcome of their appeal in writing by the vice president for student affairs or designee within a reasonable period of time.
 - g. The decision of the vice president for student affairs or designee is the final decision in the matter.

Part I: Interim Measures, Interim Suspension, and State of Emergency

- 1. Interim Measures
 - a. When the alleged actions of a student threaten the good order or safety of the university, interim measures may be put into place. Interim measures are administrative directives that are intended to insure the safety of the university and prevent a situation from escalating. Interim measures may be made at any point after a referral is received and may include, but are not limited to:

- i. Administrative directives for no contact;
 - ii. Temporary or permanent re-assignment of university housing; and/or
 - iii. Restriction of access to particular areas of campus.
 - b. CSSR will make decisions on interim measures after appropriate consultation. Professional staff in housing and residence life may initiate an immediate residential move in the case of allegations of sexual misconduct, violence, or threats of violence. They may also issue temporary administrative directives for no contact under the same circumstances. Housing and residence life will notify CSSR in writing of any interim measures they initiate as soon as possible, but no later than the next business day. All interim measures described above will be documented in writing.
2. Interim Suspension
- a. When the behavior of a student disrupts the good order of the university or poses a risk to the safety of the campus, the university may place the student on an interim suspension. This action immediately suspends the student from university premises and activities.
 - b. The interim suspension will be decided by the dean of students (or designee), in consultation with appropriate university offices. The interim suspension will be confirmed in writing, and remain in effect until such time as the alleged violations of the “Student Code of Conduct” are resolved. The student will be notified of the interim suspension by the director of community standards and student responsibility (or designee). Within three business days of the notification of the interim suspension, the student may request a review of the interim suspension. The request for review must be submitted in writing and include all relevant documentation the student wishes to be considered as part of the review. The purpose of the review is to determine only if the student poses an on-going threat. The vice president for student affairs (or designee) will then determine if the interim suspension remains in effect, is modified, or is rescinded. For instances involving allegations of sexual misconduct, relationship violence, or stalking (as defined in University Policy 03.004), the vice president or designee will make their decision in consultation with the Title IX coordinator. The decision on the review will be provided to the student in writing and is final.
 - c. The student may request an extension of the deadline to submit a request for review in extreme circumstances, such as hospitalization or incarceration. Students may be required to provide documentation related to their request for an extension.
 - d. The outcome of the review will not impact the pending disciplinary process. If the vice president for student affairs (or designee) upholds the interim suspension, the decision will remain in effect until the pending charges through the office of community standards and student responsibility have been resolved. The student will be notified of the decision of the vice president for student affairs (or designee) in writing within a reasonable time frame.
 - e. If the final decision of the community standards process is to suspend or expel the student, the sanction will take effect from the date of the interim suspension. If the decision is a reprimand or disciplinary probation, or if the student is found not to be in

violation of the charges, for purposes of the record, the interim suspension will be deemed not to have occurred. The student has the right to appeal the final decision in accordance with Part H.

- f. If the final decision of the community standards process is to suspend or expel the student, the sanction will take effect from the date of the interim suspension. If the decision is a reprimand or disciplinary probation, or if the student is found not to be in violation of the charges, for purposes of the record, the interim suspension will be deemed not to have occurred. The student has the right to appeal the final decision in accordance with Part H.
3. State of Emergency
 - a. Pursuant to Section 3345.26 of the Revised Code, the board of trustees or president of a college or university which receives any state funds in support thereof, may declare a state of emergency when there is a clear and present danger or the orderly conduct of lawful activities at such college or university through riot, mob action or other substantial disorder, and may do one or more of the following, as are necessary to preserve order and discipline at such college or university during such emergency:
 - i. Limit access to university property and facilities by any person or persons;
 - ii. Impose a curfew;
 - iii. Restrict the right of assembly by groups of five or more persons;
 - iv. Provide reasonable measures to enforce limitations of access, a curfew and restrictions on the rights of assembly imposed pursuant to this part.
 - b. Notice of action taken pursuant to Part (I)(3)(a) shall be posted or published in such manner as is reasonably calculated to reach all persons affected.
 - c. Parts (I)(3)(a) and (I)(3)(b) of this document shall not be construed to limit the authority of the board of trustees, president or other proper official of a college or university to impose reasonable restrictions on use of and access to, and the hours and use and access to university property and facilities, for purpose of regulating the proper operation of such university, and regardless of whether any emergency exists.

Part J: "Student Code of Conduct" review process

1. Timeline
 - a. The full "Student Code of Conduct" will undergo a formal review process every two years. The review will take place under the direction of the director of the Office of community standards and student responsibility in collaboration with the "Student Code of Conduct": Review & Standards Committee.
 - b. Should changes to the "Student Code of Conduct" be necessary for the purposes of complying with local, state, or Federal law, or as deemed necessary by the student code of conduct: review and standards committee, changes may be made outside of the two-year cycle.

- c. The appendices are independent of the “Student Code of Conduct” and are not part of the formal review process. For those appendices that require periodic review, the information for that process is listed in that appendix.
2. Proposing Changes to the “Student Code of Conduct”
 - a. Any member of the Ohio university community may propose amendments to the “Student Code of Conduct”. Proposed amendments shall be reviewed by the student code of conduct: review and standards committee for possible consideration.
3. Approval Process
 - a. All proposed changes to the “Student Code of Conduct” must be reviewed and approved by the student code of conduct: review and standards committee. Those changes will be submitted to the vice president for student affairs for consideration.
 - b. Changes to “Student Code of Conduct” procedure (Parts C, E, G, H, and K) are subject to approval by the vice president for student affairs before implementation.
 - c. Changes to “Student Code of Conduct” policies (Parts A, B, D, F, I, and J) are subject to approval by the president and formal action by the board of trustees prior to implementation.

Part K: Acknowledgements

Parts of the Ohio university “Student Code of Conduct” are adapted from the national center for higher education risk management (NCHERM) group “Model Developmental Code of Student Conduct” and are used here with permission. Additionally, the office of community standards and student responsibility and the student code of conduct: review and standards committee wishes to acknowledge the following for their example and assistance in crafting this code of conduct: North Carolina state university; old dominion university; plagiarism.org - <http://www.plagiarism.org/plagiarism-101/what-is-plagiarism>; Ohio state university; university of central Florida; university of Florida; university of Texas at Austin; wright state university.

This document has been formatted in order to comply with the fourth edition of the “Rule Drafting Manual” by the Ohio legislative service commission.

Appendix A

Ohio Revised Code Part 3333.38 (House Bill 95)

A. Pursuant to Ohio Revised Code Section 3333.38(C), Ohio university must immediately dismiss an individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for a violation of Ohio Revised Code Section 2917.02 (aggravated riot) or Ohio Revised Code Section 2917.03 (riot). Pursuant to Ohio Revised Code Section 3333.38(B), an individual who is convicted of, pleads guilty to, or adjudicated a delinquent child for any of the following offenses shall be ineligible to receive any student financial assistance supported by state funds for two calendar years from the time the individual applies for such assistance:

1. a violation of Ohio Revised Code Section 2917.02 (aggravated riot) or Ohio Revised Code Section 2917.03 (riot),
2. a violation of Ohio Revised Code Section 2917.04 (failure to disperse) that is a misdemeanor of the fourth degree,
3. a violation of Ohio Revised Code Section 2917.13 (misconduct at emergency) that is a misdemeanor of the fourth or first degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of Ohio Revised Code Section 2917.11 (disorderly conduct).

B. The student financial assistance programs supported by state funds includes any post-secondary student financial assistance supported by state funds, including assistance granted under Ohio Revised Code Section:

- 3315.33 Ohio Scholarship Fund for Teacher Trainees
- 3333.12 Ohio Instructional Grant Program and Part-time Ohio Instructional Grant Program
- 3333.21 Ohio Academic Scholarship Program
- 3333.26 Tuition Waiver for Child or Spouse of Public Service Officer Killed in Line of Duty
- 3333.27 Student Choice Grant Program
- 3333.28 Nurse Education Assistance Program
- 3333.29 Student Workforce Development Grant Program
- 3333.372 Ohio Outstanding Scholarship and Ohio Priority Needs Fellowship
- 5910.03 Scholarship for Children of Deceased or Disabled Veterans of the Armed Services of the United States
- 5910.032 Children of Persons Declared Prisoner of War or Missing in Action
- 5919.34 National Guard Scholarship Program

Student Sexual Misconduct, Relationship Violence, and Stalking Process

This document describes the process for investigating and adjudicating reports of alleged sexual misconduct, relationship violence, and stalking that involve students as the respondent. This process will be used to adjudicate alleged student violations of Ohio University Policy 03.004 as well as alleged violations of the *Student Code of Conduct*. This process applies to reported incidents in which the initial interview with the Complainant occurred on or after August 21, 2014. This process was last revised on August 18, 2015.

A. Definitions

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

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

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

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

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

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

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

Referring Party – Person who reported the alleged policy violation to ECRC.

Respondent – Person who is alleged to have committed a violation or violations of Policy 03.004 and/or the *Student Code of Conduct*. There may be more than one respondent for an incident.

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

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

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

B. Report of Potential Violation

Complainants may self-report incidents of sexual misconduct, relationship violence, or stalking directly to ECRC. Referrals or third party notices of alleged sexual misconduct, relationship violence and stalking also come from a variety of sources, including but not limited to students, faculty, and staff members. With the exception of the confidential resources listed below, all employees of Ohio University have an obligation to report any instances of these behaviors to ECRC. This includes mandatory reporting from the Ohio University Police Department (OUPD) and CSSR to ECRC. Per Policy 03.004, “Immediately upon learning of potential campus sexual misconduct, any employee with a duty to report violations of this policy who receives a complaint of sexual misconduct or who observes or learns of conduct that is reasonably believed to be in violation of this policy, is required to report the alleged conduct to the Office of Equity and Civil Rights Compliance.”

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

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

C. Confidential Resources

The university recognizes that students impacted by sexual misconduct, relationship violence, or stalking may wish to take advantage of health and support resources without disclosing the situation to the university. To that end, there are a number of confidential resources on campus to whom students may speak. These confidential resources are not required to report incidents to ECRC for further investigation. On campus, those resources are:

- Campus Care

1st Floor Hudson Health Center
740-593-1660
<http://www.oucom.ohiou.edu/campuscare/services.htm>

- Counseling and Psychological Services
3rd Floor Hudson Health Center
740-593-1616 (24/7 Line)
<http://www.ohio.edu/counseling/index.cfm>
- Survivor Advocacy Program
Lindley Hall, 033
740-597-7233 (24/7 Line)
survivor.advocacy@ohio.edu
<http://www.ohio.edu/survivor>

D. Timeline

Guidelines by the Department of Education suggest 60 days as a time limit to complete the investigation and hearing processes. Every effort will be made to adhere to that timeline. However, in some circumstances, this process may require an extension of that time limit. In those instances, the complainant and respondent will be notified in writing of the extension. The timeline begins when ECRC receives notice of an alleged violation and ends when the complainant and respondent are notified of the outcome of their matter. It is important to note that the 60-day time limit does not include the appeal process.

E. Assessment of Interim Measures

All reports will be reviewed to determine if interim measures are necessary. Interim measures may be implemented even if there is no formal investigation. Interim measures may be made or requested at any point after a report is received and may include but are not limited to:

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

The university reserves the right to determine the most appropriate course of action in making these arrangements. In most cases, ECRC and CSSR will make decisions on interim measures. Professional staff in the Department of Housing and Residence Life may initiate an immediate residential move in the case of allegations of sexual misconduct, relationship violence, or stalking. They may also issue temporary administrative directives for no contact under the same circumstances. Housing and Residence Life will notify ECRC and CSSR in writing of any interim measures they initiate as soon as possible but no later than the next business day. All interim measures described above will be documented in writing.

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

F. Resources and Options Meeting

Staff from ECRC will contact the complainant within one business day of receiving a report of alleged sexual misconduct, relationship violence, or stalking to set up a resources and options meeting. The following will be covered:

- Medical, mental health, advocacy, law enforcement, and other resources available both on campus and in the surrounding community
- Possible interim measures (see Section E above)
- The obligation of the university to investigate every report of alleged sexual misconduct, relationship violence, and stalking under federal and state law, Ohio University policy, and out of concern for the safety of our campus community
- The process for investigating and resolving alleged violations of sexual misconduct, relationship violence, and stalking
- The rights of the complainant and respondent (see Section K below)
- The option to request confidentiality and the process by which that request will be evaluated (see Section G below)

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

G. Request for Confidentiality

Complainants may request that their name not be used as part of any investigation that the university may initiate. Confidentiality will be discussed during the initial interview. Referring parties may share that a complainant wishes to request confidentiality, but it will not be considered a formal request until made by the complainant to ECRC. Complainants requesting confidentiality need to be aware that the inability to use a complainant's name can significantly impede the university's ability to conduct an investigation and, in most cases, the university will be unable to investigate the matter or resolve it through the Student Sexual Misconduct, Relationship Violence, or Stalking Process or other university processes. Additionally, confidentiality can also impact the interim measures the university is able to put in place. For example, a no-contact directive could not be issued if the complainant's name cannot be shared.

Should a complainant wish to request confidentiality, that request will be reviewed jointly by ECRC and CSSR. The university will make every effort to honor a complainant's request for confidentiality; however, there are times when that request will not be able to be granted. Some of the reasons a request for confidentiality may be denied include but are not limited to:

- The reported use of force during the commission of an alleged violation of sexual misconduct, relationship violence, or stalking
- The reported use of a weapon during the commission of an alleged violation of sexual misconduct, relationship violence, or stalking
- Significant physical injury resulting from an alleged violation of sexual misconduct, relationship violence, or stalking
- The involvement of multiple respondents in the commission of an alleged violation of sexual misconduct, relationship violence, or stalking
- Prior allegations (substantiated or not) of sexual misconduct, relationship violence, or stalking made against the respondent

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

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

H. Gatekeeping

ECRC serves as the initial gatekeeper responsible for conducting the preliminary assessment to determine if there is enough information to initiate a formal investigation. This responsibility exists because ECRC serves as the university's Title IX compliance office and oversees Title IX grievance processes. If there is no reasonable cause to believe that Policy 03.004 has been violated, ECRC will notify appropriate parties and close the matter. ECRC may also refer the matter to CSSR for resolution under the student conduct process if the report contains other alleged violations of the *Student Code of Conduct*. If ECRC determines there is reasonable cause to initiate an investigation, that investigation will be conducted in accordance with Section M below.

Both CSSR and ECRC are responsible for ongoing gatekeeping once a matter has moved to investigation. There may be instances in which the information collected in the course of the investigation does not meet the elements of a violation of Policy 03.004. In such situations, the investigative team will make a written recommendation to the Title IX Coordinator to close the matter in the sexual misconduct process. The Title IX Coordinator will review the recommendation and make a decision as to which process is best suited to resolve the issue. If the Title IX Coordinator agrees to close the issue in the sexual misconduct process, the investigative team will issue a letter to both the complainant and respondent with that information and the rationale for that decision, with a copy to the Title IX Coordinator and the director of Community Standards and Student Responsibility. If there are other allegations present, the allegations will be referred to CSSR for adjudication.

I. Amnesty for Alcohol and Drugs

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

J. Related Student Code of Conduct Allegations

In situations where the sexual misconduct matter has moved to a formal investigation, any related *Student Code of Conduct* allegations connected to the sexual misconduct that arise during the investigation will be adjudicated within the sexual misconduct process. Two examples of allegations that will be resolved in this manner are allegations that the respondent used alcohol or drugs to facilitate sexual misconduct, and possession or use of a weapon in the course of sexual misconduct. These are alleged *Student Code of Conduct* charges, and the sanctions for those related charges, if substantiated and regardless of whether the sexual misconduct charge is substantiated, would be determined in the hearing.

K. Rights of the Complainant and Respondent

Both complainants and respondents have the right to:

- Have a support person, process advisor, and/or legal counsel present during any meetings or hearings that may occur as part of this process
- Have legal counsel advise them whether or not to answer questions. (Please note, legal counsel is not otherwise permitted to participate in the process.)
- Request reasonable accommodations due to disability (see Section L below)
- Have their matter handled in a forthright and timely manner
- Receive advance notice of any meetings in which they are entitled to participate and the purpose of those meetings
- Provide statements, evidence, and information as part of the investigation
- Know the names of all witnesses that are contacted as a part of the investigation
- Know the specific charges being made under Policy 03.004 and the *Student Code of Conduct* and the range of potential sanctions should a violation be found
- A copy of the redacted pre-hearing investigative report in order to prepare for the hearing
- Inspect information compiled by the investigators for the purpose of the sexual misconduct resolution process in order to prepare for the hearing
- Speak or not speak on their own behalf
- Question witnesses that appear through the hearing authority
- Rebut written materials presented in a hearing
- File a written appeal to the Vice President for Student Affairs

L. Reasonable Accommodation for Students with Disabilities

Any student with a disability involved in this process has the right to request reasonable accommodations in order to ensure their full and equal participation in this process. Students wishing to request reasonable accommodations should make those requests directly to the office of Student Accessibility

Services (SAS). Students do not have to disclose information about the complaint or charge to SAS to request reasonable accommodations except to the extent that it may assist in the determination of reasonable accommodations. Accommodations are determined on an individual basis by SAS staff and implemented in consultation with CSSR and ECRC. Examples of reasonable accommodation include but are not limited to sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, or assistance with transcribing questions during interviews or hearings.

M. Investigation

Once ECRC has determined that a matter will proceed, a joint investigation will be conducted by ECRC and CSSR. Each office will assign one investigator to the matter and that team of two investigators will conduct a prompt, thorough, and impartial investigation. Every effort will be made for both investigators to be present at all interviews.

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

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

- The names of the investigative team
- Applicable policies to the matter
- A list of involved parties
- A brief history of the investigation
- The violations that were alleged to have occurred
- Summaries of the interviews the investigative team conducted

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

N. Pre-Hearing Meetings

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

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

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

O. Hearing

A hearing will be conducted for all matters that are not resolved by the respondent accepting responsibility after the pre-hearing meeting. The hearing authority will use the preponderance of the evidence standard in making their decision as to whether or not university policy was violated. Both members of the hearing authority must agree that the standard of proof has been met, if not there will be no finding of violation.

All hearings under this process will be closed to the public. The complainant and respondent will not be permitted to address each other or any witnesses directly but may submit questions they would like to have asked to the hearing authority. The hearing authority will determine which questions are relevant. For example, questions introducing the complainant's sexual history with anyone other than the respondent would be deemed irrelevant and would not be asked. Initial questions that the complainant and respondent would like to ask of the other party or any witnesses should be submitted in writing in advance of the hearing. Those questions should be submitted to the investigators by no later than 5:00 pm two business days before the hearing is scheduled. Should the need to ask additional questions arise during the hearing, each party will be asked to write their question down and submit the question to the hearing authority for consideration.

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

- The hearing authority will begin the hearing by discussing expectations for the hearing.
- The hearing authority will give a brief overview of the nature of the allegations.
- The hearing authority may ask the investigative team clarifying questions regarding the investigation at any point during the hearing.
- The complainant will be given an opportunity to respond to the investigative report.
- The hearing authority will have an opportunity to ask complainant questions

- The respondent will be given an opportunity to provide the hearing authority with a list of questions they would like complainant to be asked. The hearing authority will determine which questions are relevant.
- The respondent will be given an opportunity to respond to the investigative report.
- The hearing authority will have an opportunity to ask respondent questions.
- The complainant will be given an opportunity to provide the hearing authority with a list of questions they would like respondent to be asked. The hearing authority will determine which questions are relevant.
- The hearing authority will call witnesses and ask them questions.
- The complainant will be given an opportunity to ask questions of witnesses through the hearing authority.
- The respondent will be given an opportunity to ask questions of witnesses through the hearing authority.
- The complainant will be given the opportunity to make a summary statement, including an impact statement, if any, and any requested sanctioning considerations.
- The respondent will be given the opportunity to make a summary statement, including an impact statement, if any, and any requested sanctioning considerations.

The hearing authority reserves the right to ask questions of anyone at the hearing at any time. The hearing authority will recess to deliberate on findings and, if applicable, sanctions. Once the hearing authority has reached their decision, the hearing will be reconvened, and the finding will be given along with a rationale for the decision. If the respondent is found in violation, the sanction will be given along with a rationale for the sanction. Sanctions will be determined in accordance with the Sanctioning Guidelines for Sexual Misconduct, Relationship Violence, and Stalking. Both parties will receive a formal written notice of the outcome of the hearing within two business days of the conclusion of the hearing with a copy to the Title IX coordinator.

The hearing authority aims to make a decision at the time of the hearing, however, there may be instances in which the hearing authority may require additional time to deliberate. In such cases, the hearing authority will adjourn the hearing, and both the complainant and respondent will be notified of the outcome in writing within two business days with a copy to the Title IX coordinator.

P. Appeal

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

- Inappropriate sanction (*cases of clear abuse of discretion by the hearing authority*);
- Procedural defect in the original hearing (*cases where a defect substantial enough to change the outcome of the finding is present*); and/or
- Presence of new evidence that was not available at the time of the hearing (*evidence which was not available at the time of the original investigation **and** is found to be substantial enough to have changed the outcome of the finding*).

If either party submits an appeal, that appeal will be shared with the other party who will then have three business days to write a rebuttal. In the event of an emergency, deadline for appeals and/or rebuttals can be extended for up to three additional business days at the discretion of the vice president for student

affairs or designee. The appeals and rebuttals will be submitted to CSSR, who will forward them with the case file, to the vice president for student affairs or designee. Within two weeks of receiving the appeal(s) and rebuttal(s), the vice president for student affairs or designee will make a final determination in consultation with the Title IX coordinator. The vice president or designee may alter the sanction, order a new hearing, or uphold the decision. The appeal process is not a re-hearing on the matter. It is a closed process and is limited to the review of written documents and the case file.

Q. Notice of Final Determination

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

R. Sanction Monitoring

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

S. Process Review

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