

1. Why is this policy important?

- Promoting a safe and healthy campus climate for our students and for all members of the university community is our top priority.
- Discrimination and harassment, including sexual misconduct, impede the realization of the university's mission of distinction in education, scholarship, and service.
- All members of the university community are expected to conduct themselves in a manner that maintains an environment free from discrimination, harassment, and sexual misconduct.

2. Who is covered by this policy?

- This is a unified policy and applies to our entire university community: all employees (faculty, staff, student employees, and graduate associates) as well as students, appointees, volunteers, suppliers/contractors, and visitors.

3. What topics and behaviors does the policy cover?

- The policy covers key definitions, the role of the Office of Institutional Equity (OIE), harassment, discrimination, romantic and/or sexual relationships, employee duty to report, confidentiality, retaliation, investigation and resolution options, remedies, interim measures, process abuse and false allegations, and use of allegations in employment or academic actions.
- The policy details procedures for reporting allegations of harassment, discrimination, and sexual misconduct, reporting retaliation, conducting investigations, and notification of findings.

4. What behaviors does the policy prohibit?

- The policy prohibits *discrimination* and *harassment* on the basis of protected class.
- The policy prohibits *sexual misconduct* which includes sexual harassment, sexual violence, relationship violence, stalking, and sexual exploitation.
- The policy also prohibits certain relationships between individuals in a supervisory, teaching, evaluation, advising, coaching, or counseling relationships.

5. What is discrimination?

- Discrimination (disparate treatment and disparate impact) occurs when an adverse action is taken under university authority against a university community member in an educational program or activity and the action is based upon one's protected class status.
- Disparate treatment occurs when one suffers less favorable treatment than others because of their protected class status.
- Disparate impact occurs when a university policy or practice, although neutral on its face, adversely impacts persons in a protected class.

6. What is harassment?

- In the employment context, harassment is unwelcome verbal or physical conduct based on a protected class that unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.
- In the education context, harassment is unwelcome verbal or physical conduct based on a protected class that interferes with, denies, or limits an individual's ability to participate in or benefit from the university's educational programs and activities.
- Harassment can take two forms: power differentials (*quid pro quo*) or hostile environment.

7. What are the protected classes?

- Protected class is defined by federal law/executive order, federal agencies, or Ohio State policy. The protected classes include: age, ancestry, color, disability, ethnicity, gender, gender identity or expression, genetic information, HIV/AIDS status, military status, national origin, pregnancy, race, religion, sex, sexual orientation, veteran status, or any other bases under the law.

8. Can OIE assess conduct that involves more than one protected class?

- Yes, some conduct involves multiple protected classes, for example:
 - Experiences of antisemitism could fall within protected classes such as religion, ethnicity, or national origin. Ohio State has adopted the IHRA definition of antisemitism in accordance with Executive Order 2022-06D: “Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”
 - Experiences of ablism could touch on disability, age, or veteran status.
 - Experiences of transphobia could fall within sex, sexual orientation, gender, gender identity and/or expression, depending on the specific conduct.
 - Experiences of ethnic intimidation <https://codes.ohio.gov/ohio-revised-code/section-2927.12> (e.g., threats of physical harm, telecommunications harassment, and property damage) based on race, color, religion, and/or national origin will be reviewed as potential protected class harassment under the Non-Discrimination, Harassment, and Sexual Misconduct policy.
- **Note:** the protected class conduct must also meet the definition of an OIE policy violation (e.g., harassment, discrimination, etc.) to constitute a violation of policy.

9. What is sexual misconduct?

- Sexual misconduct is a form of sex- and gender-based discrimination. The policy defines sexual misconduct as a broad term that encompasses:
 - Sexual harassment,
 - Sexual assault,
 - Relationship violence,
 - Stalking, and
 - Sexual exploitation.

10. What is sexual harassment?

- Sexual harassment is a form of sexual misconduct.
- Sexual harassment differs from the employment context (working for the university) to the education context (being a student of the university), so the policy defines sexual harassment in both contexts.
 - *Employment* context: Unwelcome, sex- or gender-based verbal or physical conduct that unreasonably interferes with an individual’s work performance or creates an intimidating, hostile or offensive work environment.
 - *Education* context: Unwelcome, sex- or gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it interferes with, denies or limits an individual’s ability to participate in or benefit from the university’s educational programs and activities.
- No matter the context (employment or education), sexual harassment can take two forms:
 - Power differentials (commonly called “quid pro quo”)
 - Hostile environment



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- A single or isolated incident can constitute sexual harassment if it is severe enough to create a hostile environment.

11. Why are there two different definitions for sexual harassment?

- The definitions result from the different legal requirements for each type of setting. In the *employment* context, sexual harassment is covered by Title VII of the Civil Rights Act of 1964 (employment law) and Title IX of the Educational Amendments of 1972 (nondiscrimination law regarding sex and gender). In the *education* context, sexual harassment is covered by Title IX of the Educational Amendments of 1972 (nondiscrimination law regarding sex and gender).

12. What are some examples of conduct that could constitute sexual harassment?

- Verbal
 - Making sexual comments about a person's body
 - Sexual jokes, comments, or innuendos
 - Unwanted flirtation, advances, or propositions
 - Whistling, cat calls
 - Asking about sexual fantasies, preferences, or history
 - Telling lies or spreading rumors about a person's sex life
- Non-Verbal
 - Leering or looking a person up and down (elevator eyes)
 - Sexual gestures with hands or through body movements
 - Facial expressions such as winking, throwing kisses, or licking lips
 - Display/transmission of sexually suggestive objects, visuals, or electronic content
- Physical
 - Any unwelcome physical contact of a sexual nature, such as:
 - Unwanted massages or touching a person's hair, clothing or body
 - Hugging, kissing, patting or stroking
 - Touching or rubbing oneself sexually around another person

13. What is a prohibited relationship?

- Romantic and/or sexual relationships that are not allowed due to power differentials. A power differential exists when one party is responsible, at least in part, in their official capacity for supervising, evaluating, teaching, advising, coaching, treating, or counseling the other party.
- Examples of these relationships include physician/patient, instructor/student, supervisor/supervisee, etc.
- Even when not otherwise prohibited, the university discourages any romantic and/or sexual relationships between faculty and students due to the possibility of a power differential, including but not limited to such relationships between faculty and graduate students when in the same department and between faculty and undergraduate students majoring in the faculty member's area of expertise.

14. Is sexual misconduct only male to female? Supervisor to employee? Faculty to student?

- All of the behaviors that fall under sexual misconduct can happen to or be perpetrated *by anyone against anyone*: male, female, trans, or non-binary faculty, staff, students, student employees, graduate associates, appointees, volunteers, suppliers/contractors, or visitors.

15. Why do all employees have a duty to report sexual assault?

- Ohio State relies on its employees and community members to report allegations of sexual assault so



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the university can connect those impacted by sexual assault with resources and options for investigation, including reporting to law enforcement. The university will take prompt and appropriate action to stop sexual assault and prevent its recurrence and relies on its employees to report when behavior like this has occurred so it can be addressed.

- All Ohio State employees have been designated as mandatory reporters or “responsible employees” for sexual assault under Title IX, and as such, they must immediately share all known information with the university in order to fulfill those obligations.

16. Why do some employees have an additional duty to report harassment, discrimination, all other incidents of sexual misconduct, and prohibited relationships?

- Human Resources Professionals; anyone who supervises faculty, staff, students, and volunteers; chairs/directors; and all faculty members have an **additional** obligation to report known or suspected incidents of discrimination, harassment, sexual misconduct and prohibited relationships. Because of their positions of authority, these individuals have always had a heightened responsibility to report harassment, discrimination, prohibited relationships, and all other incidents of sexual misconduct, including sexual harassment, relationship violence, stalking, and sexual exploitation.

17. Who doesn't have to report?

- Only those employees expressly identified as a confidential reporter are exempt from the duty to report.
- At Ohio State, this list includes:
 - Professional counselors,
 - Pastoral counselors,
 - Other employees with a professional license requiring confidentiality who are functioning within the scope of that license or certification and their university employment (e.g., physician with dual appointments as a clinician and a professor), and
 - Employees who are functioning within the scope of their university employment and who are supervised by or performing duties for university employees with a professional license requiring confidentiality (e.g., Student Health Center employees or Medical Center employees functioning within the scope of that license or certification).

18. I am an employee who works in an office that provides confidential support resources for the university, and I am supervised by a clinician with professional privilege (i.e. Counseling and Consultation Service or Student Health Services). If I become aware that a patient/client has experienced harassment, discrimination, or sexual misconduct in the course of my responsibilities as an employee, do I have a duty to report under the policy?

- No. You are exempt from the duty to report. Since you are engaging in duties that support the clinician with professional privilege, even if not directly supervised by such a person, you would be covered by the privilege as well.
- You are not exempt if someone makes a disclosure to you outside of your patient care responsibilities.

19. What must employees report, when, and to whom?

- All employees have an obligation to *immediately report* that a sexual assault has occurred and all known information that would lead a reasonable person to believe that *sexual assault* may have occurred involving anyone covered under the policy.
 - The policy covers faculty, staff, students, student employees, graduate associates, appointees, volunteers, suppliers/contractors, and visitors
- Anyone who supervises faculty, staff, students, and volunteers; chairs/directors; faculty members;



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and HRPs have an additional obligation to report all *harassment, discrimination, other incidents of sexual misconduct, and prohibited relationships* within *five business days*.

- It does not matter when or where the incident occurred; if you receive a disclosure or otherwise learn the information, you must report.
- These reports should be directed to the Office of Institutional Equity.
- Anonymous reports do not fulfil the employee duty to report.

20. Are there any instances when an employee might not have to report?

- Yes, under very limited circumstances, an employee is not required to report if information is disclosed:
 - At a public awareness event when individuals do not intend to make a disclosure such as “Take Back the Night,” candlelight vigils, protests, survivor speak-outs, etc.;
 - To student employees when they are operating outside of their official work capacity; or
 - During an individual’s participation as a subject in an Institutional Review Board (IRB)-approved human subjects research protocol.
- Employees who are confidential reporters are not required to report (see question 16).

21. Is there training available on the policy and these topics?

- OIE provides customized training on its policies and processes by request. Please contact equityeducation@osu.edu to request a training for your unit, team, or department.
- Online sexual misconduct training modules have been available since Fall 2015 for undergraduate students, graduate/professional students, and employees/volunteers. Online prevention and awareness training are mandatory for all employees and students.
- Mandatory training for employees
 - “Report = Support!” is an interactive, easy-to-follow course in BuckeyeLearn that takes less than 30 minutes to complete. It will continue to be assigned to every employee’s BuckeyeLearn transcript each year.
- Mandatory training for students
 - All students are required to complete the online course, “U Got This!” annually. The interactive, easy-to-follow course takes approximately 45-60 minutes and is available in BuckeyeLearn. It will be assigned to every student’s BuckeyeLearn transcript each year.
- For more information on training requirements and consequences for non-completion, visit the training page on the [Title IX website](#).

22. What if I’m a student and an employee?

- The policy covers you! If harassment, discrimination, or sexual misconduct arises involving individuals who are both students and employees, the situation is assessed in the context in which the misconduct arose.
- For example, a student employee who harasses a co-worker will typically be investigated in the employment context, because that is where the behavior arose and impacted others. However, information about the incident will also be reviewed to determine whether the student disciplinary process should be initiated, and if the student is found in violation as a result of an investigation process, separate sanctions may be issued.

23. I’m a volunteer for a program at the university, does this policy cover me and what is my role?

- Yes, this policy applies to you as a member of the university community.
- If you are subject to harassment, discrimination, or sexual misconduct by a member of the OSU community, you may report and have the incident investigated per the Non-Discrimination Policy.

24. Can I file a confidential complaint?

- The university recognizes the importance of confidentiality but cannot promise complete confidentiality. Information received in connection with the reporting, investigation, and resolution of allegations will be treated as private and will only involve individuals whom the university determines are necessary to conduct an appropriate investigation, to provide assistance and resources to parties, to perform other appropriate university functions, or in accordance with applicable law.
- If an incident is disclosed or reported to the university and the individual requests that no investigation be conducted or disciplinary action be taken, the OIE Director will explain that the university prohibits retaliation and explain the steps the university will take to prevent and respond to retaliation if the individual participates in a resolution process. The OIE Director will evaluate the request to determine whether the university can honor the request while still providing a safe and nondiscriminatory environment.

25. What about false allegations?

- Corrective action/sanctions may be imposed on individuals who knowingly or with reckless disregard for the truth make false allegations of harassment, discrimination, or sexual misconduct. The absence of a finding of a policy violation is not equivalent to a false allegation.

26. Who is typically involved in an investigation?

- Investigations of possible harassment, discrimination, and sexual misconduct by students or employees are conducted by Civil Rights Investigators in the Office of Institutional Equity and may be conducted concurrently with an ongoing criminal investigation.

27. What is the purpose and possible outcome of an investigation?

- The purpose of the investigation is to evaluate the allegations of harassment, discrimination, and sexual misconduct, formulate a response to address the situation, and follow up to ensure that recommended actions have been taken. The ultimate goal is to stop the behavior and prevent it from occurring again.
- Students found in violation of the Non-Discrimination, Harassment, and Sexual Misconduct Policy will be subject to sanctions, which could include formal reprimand, disciplinary probation, suspension, dismissal, and other appropriate educational sanctions. Employees found in violation will be subject to corrective action up to and including termination.

28. What if I am retaliated against?

- The university will not tolerate retaliation in any form against any individual who makes an allegation, files a report, serves as a witness, assists a complainant, or participates in an investigation of discrimination or harassment. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination or harassment, or for participating in an investigation.
- Retaliation is a serious violation that can subject the offender to discipline, up to and including termination of employment and/or student status, independent of the merits of the underlying allegation.
- Allegations of retaliation should be reported to the Office of Institutional Equity.

29. What should I do if I feel in danger?

- If something has occurred on campus that causes you to fear for your personal safety, report the incident to law enforcement: [University Police](#) (9-1-1 for emergencies, 614-292-2121 for non-emergencies) or local law enforcement agency at regional campuses or off-campus.

30. How do I report an incident?

- Mandated reporters can fulfill their reporting obligations by sharing all known information with the OIE office:
 - 1. Online – reporting form at titleIX.osu.edu or equity.osu.edu
 - 2. Call – 614-247-5838
 - 3. Email – titleIX@osu.edu or equity@osu.edu
- Reports can also be made voluntarily by any university community member or individual who is directly involved in, observes, or reasonably believes that harassment, discrimination, or sexual misconduct may have occurred. This includes allegations by third parties against any individual covered by this policy.
- Members of the university community may also make reports/file complaints by contacting the following (please note that these reporting options **do not satisfy** the employee duty to report):

Report/Complaint Type	Agency/Office	Contact Information
Criminal conduct	University Police	614-292-2121 or 9-1-1 for emergencies dps.osu.edu
Criminal conduct	Local law enforcement agency	9-1-1 for emergencies
Any violation of this policy	University Anonymous Reporting Line	1-866-294-9350 ohio-state.ethicspoint.com

31. What resources are available to me?

- Confidential and Non-Confidential resources are available in the OIE Reporting and Resources Brochure at <https://go.osu.edu/oieresourcesbrochure>
- You can also visit the equity.osu.edu or titleix.osu.edu for additional information.

Full Non-Discrimination, Harassment, and Sexual Misconduct Policy

- <https://go.osu.edu/non-discrimination-policy>

To Report or Request Assistance

- Office of Institutional Equity
 - 1. Online – reporting form at equity.osu.edu
 - 2. Call – 614-247-5838
 - 3. Email – equity@osu.edu or titleIX@osu.edu
- Title IX Coordinator, Melissa Mayhan in the Office of Institutional Equity