

# GENDER-BASED MISCONDUCT AND TITLE IX POLICY & PROTOCOL

The University of Akron's (the University) Title IX Team is committed to promote a safe and non-discriminatory environment as we discharge our responsibility to ensure compliance with Title IX, the federal law prohibiting discrimination based on sex and gender for all students and employees. Our responsi



## Limited Amnesty

While the University does not condone underage drinking, drug use, or violation of other University rules/policies, it considers reporting gender-based misconduct to be of paramount importance. To encourage such reporting and adjudication of such conduct, The University will extend limited amnesty to complainants, respondents, and witnesses. The University will generally not seek to hold the student responsible for a non-violent violation of the law or the Code of Student Conduct, such as personal use of alcohol or drugs, during the time period immediately surrounding the reported behaviors prohibited by the gender-based misconduct protocol.

## Jurisdiction

Jurisdiction as defined by Title IX of the Education Amendments Act of 1972 must occur within the University's programs, activities, and/or University owned or controlled locations in the United States, or in any building owned or controlled by a student organization officially recognized by The University, and where the University exercises substantial control over both the respondent and the context in which the prohibited conduct occurs.

Jurisdiction as defined by The University Gender-Based Misconduct Policy and Protocol may occur within circumstances in which the University exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to adversely affect the University, its students and/or employees including off campus occurrences.

Protections from discrimination outlined in this protocol are extended to all University students, faculty, and staff; as well as to all applicants for admission to undergraduate or graduate studies and applicants for employment.

Students are prohibited by the University from engaging in prohibited conduct from the date they have been notified of their acceptance for admission until the date their degree is conferred; even though conduct may occur before classes begin or after classes end. Students who have not yet completed their degree and are no longer actively enrolled may be subject to a formal complaint as outlined in the grievance process. Employees are prohibited by the University from engaging in prohibited conduct from their first day of employment until their separation on the 164th day of e.e. .8(eted een n72( 0719 -0(s )yu)-1.J-t).TJ270008 Tc.002

## Rape

The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their ag

- x Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- x Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## Sex Discrimination

An unequal or disadvantageous treatment of an individual or group of persons based on their sex, gender, sexual orientation, and/or gender identity. This includes, but is not limited to, situations where individuals are harassed, excluded or denied equal access, or subjected to sex stereotyping in academic or extracurricular opportunities.

## Retaliation

Retaliation occurs when an individual or group intimidates, threatens, coerces, or discriminates against an individual(s) for the purpose of interfering with any right or privilege secured by Title IX or this protocol or because the individual(s) has made a report or formal complaint of a violation of University policy, or testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing. A good faith pursuit of legal action or the exercise of rights protected under the First Amendment does not constitute retaliation.

# Gender - Based Misconduct as defined by University Protocol – Part B

## Gender Discrimination

An unequal or disadvantageous treatment of an individual or group of persons based on their sex, gender, sexual orientation, and/or gender identity. This includes, but is not limited to, situations where individuals are harassed, excluded or denied equal access, or subjected to sex stereotyping in academic or extracurricular opportunities.

## Battery

As prohibited by The University, battery is intentionally, or negligently, causing physical contact or bodily harm to another person because of a person's sex or gender.

Battery within the jurisdiction defined by The University Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

## Indecent Exposure

As prohibited by The University, indecent exposure is the exposure of the private or intimate parts of the body in a lewd manner in public or in private when the respondent(s) may be readily observed and/or engaging in sexual activity in public.

Indecent Exposure within the jurisdiction defined by The University Gender-Based Misconduct Policy and Protocol may occur within circumstances in which The University exercises substantial control over both the respondent and the context in which the discrimination occurs or within circumstances deemed by the University to affect adversely the University or its students and University employees.

## Sexual Exploitation

As prohibited by The University, sexual exploitation is taking non-consensual, unjust, or abusive sexual advantage of another.

Examples include, but are not limited to:

- x taking, sharing, or copying pictures, video, or audio recording of nudity or sexual activity without consent;
- x knowingly allowing another to secretly watch otherwise consensual sexual activity;
- x engaging in non-consensual voyeurism;
- x sex trafficking or coercing another person to perform a sexual act with an individual or group;
- x inducing another to touch or expose their genitals; or
- x possession, use, and/or distribution of alcohol or other drug (e.g., Rohypnol, Ketamine, GHB, Burudanga, etc.) for the purpose of engaging in or facilitating any activity prohibited herein.

## Sexual Harassment

Sexual harassment is unwelcome sexual, sex-based, and/or gender-based verbal, written, electronic, and/or physical conduct that unreasonably interferes with an individual's work or educational experience or creates an intimidating, hostile, or offensive working, educational or residential environment. Sexual Harassment includes but is not limited to:

### Quid Pro Quo

Explicitly or implicitly conditioning an individual's employment, academic status, or participation in an educational program or activity on the individual's submission to unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature made by a person having power or authority over the provision or denial of that employment, status, program, or activity.

### Hostile Environment

Sexual, sex based, and/or gender-based verbal, written, electronic, and/or or physical conduct that a reasonable person would consider severe or pervasive and that unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the University's educational programs, employment, and activities, or creates a hostile or offensive work, educatio

## Requirement to Report

All employees are classified as either responsible (mandatory) reporters or confidential reporters. Every employee is a mandatory

The University Police Officers receiving a report of gender-based misconduct must file a report with the University and evaluate whether a timely warning or safety notification will be made. While law enforcement officers are required to file a Title IX report, complainants are not obligated to pursue an investigation through the University.

## What to Report

Concerns falling under this Protocol must be reported whether the conduct occurred on-campus, off-



	Michael Strong, Associate Vice President, Dean of Students Student Union, Room 152 (330) 972-6593 <a href="mailto:mstrong@uakron.edu">mstrong@uakron.edu</a>
Reports involving the regional campuses, including the Wayne Campus	Deputy Title IX Coordinator for Regional Campuses Sonya Wagner, Manager Student Services Wayne Campus Wayne Campus, Boyer HPE Building, Room A206 (330) 972-8935 <a href="mailto:sew30@uakron.edu">sew30@uakron.edu</a>
Reports involving student athletes	Deputy Title IX Coordinators for Athletics Jacklin Wallgren, Senior Associate Athletic Director for Institutional Services Infocision Stadium 269 (330) 972-5512 <a href="mailto:jwallgren@uakron.edu">jwallgren@uakron.edu</a>
Reports involving employees and third-parties	Deputy Title IX Coordinator for Employees Emily Lenke, Director Employee and Labor Relations Administrative Services Building, Room 125E (330) 972-6195 <a href="mailto:emf22@uakron.edu">emf22@uakron.edu</a>
Reports involving the Law School	Deputy Title IX Coordinator for Law School Andrew Costigan, Assistant Dean of Student Affairs McDowell Law Center 106 (330) 972-5170 <a href="mailto:acc142@uakron.edu">acc142@uakron.edu</a>

If the report was submitted by a third party, the complainant will be provided an opportunity to review or amend the reported information. The complainant will review the grievance procedure with the deputy coordinator or designee and be offered assistance in submitting a formal complaint.

No decisions regarding formal complaints, reporting to police or police investigations, need to be made at this initial meeting

## Removal for Safety Threat

### Student

Pending action on the alleged violation(s), the status of a student shall not be altered, nor shall the student's right to be present on campus and to attend classes be suspended,

## Who Can File a Formal Complaint?

While anyone may file a report alleging that conduct occurred which is prohibited by this protocol, only individuals who are participating or seeking to participate in an educ



## Hearing Process

A live hearing will occur following the issuance of the investigative report. The University may conduct this live hearing through a virtual platform that permits the parties to simultaneously view and hear each other and the proceedings. The parties, their advisors, and all witnesses will be notified in writing of the date, time, and location of the hearing no later than ten (10) business days before the hearing. All parties must have an advisor or request a University advisor for the hearing. At the request of either party, the hearing will be conducted electronically with the parties in separate rooms. No findings of responsibility will be made by the hearing officer based solely on an individual's absence from the live hearing or failure to answer questions at the hearing.

During the hearing, the parties' advisors will have the opportunity to cross-examine the other party and witnesses, including on issues of credibility. Advisors may, but are not required to be, an attorney. All questionings will be conducted in accordance with the University's rules of decorum. The parties may not ask questions directly of the other party or witness. If a party does not have an advisor, the University will provide an advisor for the hearing at no cost to that party. All evidence directly related to the allegations which was obtained as part of the investigation will be made available to the parties and their advisors for use at the hearing.

The hearing officer will determine the admissibility of any questions asked during the hearing. In doing so, the hearing officer is not bound by the Ohio Rules of Evidence or the Federal Rules of Evidence. Questions about the complainant's sexual predisposition or prior sexual behavior will not be permitted unless offered to prove that someone other than the respondent committed the alleged conduct or offered to prove consent as defined under this Protocol. Questions seeking disclosure of legally privileged information, such as medical or mental health information, discussions with attorneys, counselors, or religious/spiritual advisors, will not be permitted without the express written consent of the individual holding the privilege.

The hearings will be video recorded. A copy of the recording will be made available to either party upon written request.

## Hearing Outcome

The hearing officer will determine responsibility for a violation of this Protocol following the hearing using a preponderance of the evidence standard, or whether it is more likely than not that the respondent engaged in conduct which violates this policy. Credibility determinations will be based on relevant factors, including, but not limited to, an ov







## Records Retention

Records, including reports, formal complaints, investigation files, hearing decisions, appellate information and appeal decisions will be maintained by the University for seven (7) years as required by Title IX. Title IX records are subject to The University records retention policy and additional information is available at <https://www.uakron.edu/ogc/legal-policies-and-procedures/records/records-retention.dot>.

The records maintained will include any supportive measures taken in response to a report or formal complaint of sexual harassment. In each instance, the University will document the basis for its conclusion and that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the University does not provide a complainant with supportive measures, then the University will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

## Annual Review of Reporting Protocols and Procedures

The Title IX Coordinator is responsible for this Protocol. It is reviewed annually and posted as required by law as part of the Annual Campus Safety Report. The University's Protocol is designed to comply with applicable state and federal laws. The University reserves the right to modify or deviate from this Protocol when, in the sole judgment of the University, circumstances warrant, to protect the rights of the involved parties or to comply with applicable law or regulations. Prior versions of the University Protocol are available upon request.

## Training

All Title IX Coordinators, deputy Title IX coordinators, investigators, decision makers, individuals responsible for reviewing appeals, and individuals who facilitate the informal resolution process will, as applicable, receive training on:

- x The definition of behaviors prohibited under this Protocol;
- x Jurisdiction under Title IX;
- x The scope of the University's education program or activities;
- x Conducting grievance procedures including investigations, hearings, appeals, and informal resolution (as applicable); and
- x How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

In addition, decision makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators will receive training on issues of relevancy to create an investigative report that fairly summarizes the relevant evidence. Materials used to train these individuals will be available on the University's website.

## Educational Programs and Campaigns

The University strives to develop and maintain a campus culture that is safe for, and respectful of all its community members. To achieve this goal, the University offers a combination of prevention programs, awareness programs, and ongoing campaigns that are designed to create awareness of, and prevent prohibited behaviors identified in this Protocol. The initiatives outlined below are informed by research and periodically assessed for effectiveness.

*Awareness* - The University's awareness program start with online training which is mandatory for all new students and continues with programs specifically designed for first-time, first-year, students. Programs are also presented to the University during Domestic Violence Awareness Month, and Sexual Assault Awareness Month.

*Prevention* - The University's prevention program has been built upon several activities. Programs have included presentations during the Akron Experience Course, posters, environmental and social media displays around campus, online training for upper-class students, mandatory training for faculty and staff and a program designed to better help men understand wellness, health, and their own experiences. Trainings include steps students can take to increase personal empowerment for creating a safe community by proactively addressing conditions that tend to make violence possible and safe options for bystander interventions.

