



**OTTERBEIN**  
UNIVERSITY



**Sexual Misconduct Policy | 2016-2017**

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**[www.otterbein.edu/public/TitleIX.aspx](http://www.otterbein.edu/public/TitleIX.aspx)**

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# **Sexual Misconduct**

Sexual Misconduct is a Level IV Violation

*Otterbein University does not discriminate on the basis of sex in its education programs or activities. The University has designated the following person to address any questions you may have about sexual misconduct and Title IX:*

*Scott Fitzgerald  
Title IX Coordinator  
614.823.1130  
[sfitzgerald@otterbein.edu](mailto:sfitzgerald@otterbein.edu)*

*You may also contact the United States Department of Education, Office of Civil Rights, with any sexual misconduct and Title IX questions:*

*Office of Civil Rights (OCR)  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline: 800.421.3481  
TDD# 877.521.2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov.ocr>*

*Sexual misconduct is covered by University Policy 117.0 Sexual Misconduct, which includes the following introductory statement:*

*Members of the University community, guests, and visitors have the right to be free from all forms of gender and sex-based discrimination, including sexual misconduct, examples of which can include acts of sexual assault, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. When a respondent is*

*found to have violated this policy, sanctions and other appropriate measures will be used to reasonably ensure that the sexual misconduct has been stopped, its effects have been addressed, any hostile environment has been eliminated and steps have been taken to prevent its recurrence. This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and to establish a mechanism for determining when those expectations have been violated.*

*University Policy 117.0 Sexual Misconduct applies to all students, faculty, staff, visitors and vendors. The policy can be found at <http://www.otterbein.edu/intranet/HR/policies.aspx>*

*The University has jurisdiction over Title IX complaints. Title IX Policy and procedures apply to complaints of sex and gender-based discrimination, including sexual harassment, sexual assault and violence, intimate partner violence, stalking, bullying, and retaliation carried out by employees, faculty, students and third parties. This policy covers all University programs and activities. The University will process all Title IX complaints regardless of where the conduct occurred to determine whether the conduct occurred in the context of its educational program or had continuing effects on campus or in an off-campus program or activity.*

**Sexual misconduct is contact of a sexual nature without clear, knowing and voluntary consent, or offensive sexual or other behavior which exploits another person on the basis of gender or sexual orientation, including the following:**

- 1. Non-consensual sexual intercourse**, defined as any sexual penetration (anal, oral or vaginal), however slight, with any body part or object by any person upon any person without consent.

2. **Non-consensual sexual contact**, defined as any intentional sexual touching, either by the offender or when the complainant is forced to touch, with any body part or object without consent.
3. **Sexual harassment**, defined as unwelcomed conduct that creates a hostile environment or otherwise results in individuals being denied equal opportunity in education. It is defined in two broad categories:
  - **Quid pro Quo**: involves promises (for example, high grades, raises, promotions) based on an individual's willingness to submit to unwelcomed behavior, including sexual favors or activities or relationship or other unwelcome attention based on the person's gender or sexual orientation. It can also involve threats (e.g. demotion, bad grades, corrective action, etc.) based on an individual's refusal to submit to unwelcome behavior, including being involved in a sexual or romantic relationship, granting sexual favors or engaging in other sexual or unwelcome activities based on sexuality or gender. The promise or threat does not necessarily need to be overt.
  - **Hostile Environment**: ordinarily exists when there are incidents of verbal or nonverbal behavior in the academic environment or workplace that focus on the sexuality or gender of a person, that are unwelcomed, that are severe or pervasive enough to adversely affect a person's academic environment or work, and that are outside the realm of appropriate academic study or work practices.
4. **Sexual exploitation**, defined as taking non-consensual, unjust or abusive sexual advantage of another. Examples include, but are not limited to, prostituting another student, non-consensual video or audio-taping of sexual activity, going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity), engaging in non-consensual voyeurism, and knowingly transmitting or exposing another

person to a sexually transmitted infection (STI) without the knowledge of the person.

5. **Stalking**, defined as engaging in a course of conduct directed at a specific person, based on gender or sexual orientation, that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.
6. **Domestic Violence**, defined as violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child, by a person who is or was cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant, and/or by any other person against an adult or youth victim who is protected from that person under the domestic or family violence laws.
7. **Dating Violence**, defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship is determined based on the following factors: length of the relationship, type of relationship and frequency of interaction between the persons involved in the relationship.
8. **Indecent exposure**, defined as the exposure of the private or intimate parts of the body in a lewd manner in public or in private premises when the accused may be readily observed.

## **Consent**

**Consent is informed, freely and actively given, and communicated through mutually understandable words or action, which indicate a willingness to engage in mutually agreed upon sexual activity.**

- Consent is active, not passive.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in the

conditions of sexual activity: who, what, when, where, why and how sexual activity will take place.

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Consent can be withdrawn at any time by word or action.
- Previous relationships or prior consent cannot imply consent to future sexual acts.

To be effective, **consent cannot be obtained by use of physical force, compelling threats, intimidating behavior or coercion.**

- Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion.
- Coercion is unreasonable pressure for sexual activity. When a person indicates by words or actions that they do not want to engage in sexual activity, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- Intimidation is implied threats, including the exertion of perceived or actual power resulting from position or stature.
- A person must be of legal age (16) to give consent.

**An incapacitated person cannot give consent.** Sexual activity with someone who one should know to be mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout) is not consented sexual activity and therefore is a violation of this policy.

- Incapacitation is a state where someone cannot make rational, reasonable decisions.
- Incapacitation may result from mental disability, sleep, involuntary physical restraint, or from taking “rape drugs.” (A rape drug is any drug intentionally used to incapacitate



another victim to assist in the execution of drug facilitated sexual assault.)

- Possession, use and/or distribution of any so-called “rape drug” is prohibited, and administering these drugs to another person is a violation of this policy.
- Being under the influence of alcohol or other drugs will not excuse behavior that violates this policy.

## **Sexual Harassment**

Sexual harassment is unwelcomed conduct, based on gender or sexual orientation that creates a hostile environment or otherwise results in individuals being denied equal opportunity in the terms and conditions of their education or employment.

### **Examples of Sexual Harassment**

#### **“Quid pro quo” sexual harassment:**

- Submission to unwelcome conduct on the basis of gender is made either explicitly or implicitly a term or condition of an individual’s employment, academic status, participation in any program or activity, or living environment;

**Hostile environment sexual harassment.** The following are examples of the types of conduct that, if severe or pervasive enough, can create a hostile work or educational environment on the basis of gender:

- Inappropriate comments of a sexual nature, including sexually explicit comments, questions, or jokes;
- Persistent, unwelcome attempts to change a working or academic relationship into a romantic or sexual relationship;

- Inappropriate remarks about sexual activity, experience, or orientation;
- Abusive or derogatory remarks about individuals or classes of individuals on the basis of their gender or sexuality;
- Persistent and unwelcome forms of attention toward another member of the University community such as requests for dates, flirtations, sexual advances, phone calls or other communications, or unwanted gifts;
- Touching, patting, hugging, brushing against an individual's body, or repeated or unwanted staring;
- Display of inappropriate sexually oriented or derogatory materials in a location where others can see them;
- Sexual violence or assault (can also be a criminal violation subject to the criminal justice system).

**Pregnancy Discrimination.** Pregnant students (or students who have been pregnant) will not be excluded from participating in any part of an educational program, including extracurricular activities. Pregnancy and related conditions include: pregnancy, childbirth, false pregnancy, termination of pregnancy, miscarriage, or recovery from any of these conditions.

Otterbein will take the following actions to support a pregnant student:

- Excuse a student's absences because of pregnancy or childbirth for as long as the student's doctor deems the absences medically necessary.
- When the student returns, the University will provide the student the same academic and extracurricular status attained before the medical leave.

- Pregnant students will be treated in the same manner as other students with temporary medical conditions.

## **Reporting/Resources**

**Amnesty.** The University encourages students to report sexual misconduct. Sometimes, survivors or witnesses are hesitant to report to university officials because they fear that they themselves may be accused of a policy violation, such as alcohol and drug use, at the time of the incident. It is in the best interest of the community that as many survivors as possible choose to report sexual misconduct to university officials and that witnesses come forward to share what they know. To encourage reporting, the University offers survivors of sexual misconduct and witnesses amnesty from minor policy violations (such as alcohol and drug use) related to the incident.

Promptly seeking information can be very helpful to anyone who may want to report sexual misconduct. Reporting incidents is important to addressing sexual misconduct on campus. There are a number of options available to students.

Victims of sexual violence are encouraged to get to a safe place and obtain immediate medical treatment. Calling 911 is important to obtain immediate medical assistance and medical support to preserve evidence. Additional immediate contacts include:

- Westerville Police Department - 911 for immediate threat
- Otterbein Police Department – 614-823-1222 or 911
- Your RA (resident assistant)
- SARNCO (Sexual Assault Response Network of Central Ohio)  
24-hour-rape helpline at 614.267.7020

Additional contact information can be found toward the end of this policy under, “Additional Resource Information Regarding Sexual Violence.”

If the Complainant files a criminal complaint with law enforcement, the University will comply with law enforcement requests for cooperation, which may require the University to temporarily suspend the fact-finding aspect of a Title IX investigation while law enforcement gathers evidence. The University will promptly resume its investigation as soon as notified by law enforcement that they have finished gathering evidence.

**Identification of parties as used in this policy:**

**Complainant: an individual who brings forth a concern of sexual misconduct**

**Respondent: an individual who is accused of sexual misconduct**

**Title IX Coordinator: University employee responsible for overseeing all investigations related to sexual misconduct, to ensure prompt, fair, and impartial investigation and resolution. The Title IX Coordinator will coordinate the in-take, investigation, and review of all complaints that fall within this policy. Presently, the Title IX Coordinator is the University’s Director of Human Resources.**

The Title IX team receives annual training regarding the following topics:

- Handling of complaints of sexual harassment
- The University's Sexual Misconduct/Title IX Policy

- Grievance procedures
- Applicable confidentiality requirements
- Changes in state/federal laws related to sexual misconduct/Title IX.

### **Retaliation**

The University will not tolerate retaliation in any form against any student, faculty or staff who files a complaint (Complainant), against whom a complaint has been filed (Respondent), serves as a witness, assists the Complainant or Respondent, or participates in an investigation of discrimination or harassment. The University will take steps to prevent retaliation or recurrence of any sexual misconduct on the Complainant or others.

### **To Discuss Confidentially**

Students who wish to confidentially discuss a concern may speak with on-campus mental health counselors, Student Health Center providers, the University Chaplain, or student advocates in the Women's, Gender, and Sexuality Resource Center. Off-campus resources are also available to students.

### **Campus Confidential Resources:**

Otterbein Counseling Services

614.823.1250

Student Health Center

614.823.1345

University Chaplain

614.823.1409

Women's, Gender, and Sexuality Resource Center

614.823.1028

### **Off-Campus Confidential Resources:**

SARNCO (Sexual Assault Response Network of Central Ohio),

614.267.7020

CHOICES 24 Hour Domestic Violence Hotline

614.224.4663

Mt. Carmel Crime & Trauma Assistance Program

614.234.5900

Buckeye Region Anti-Violence Organization (BRAVO)

614.294-7867

Rape, Abuse, & Incest National Network (RAINN)

800.656.4673

National hotline that connects callers to their nearest rape crisis line.

**Anonymous Reporting:**

Campus Conduct Hotline

866.943.5878

Otterbein Police Silent Witness online form at:

<http://www.otterbein.edu/public/CampusLife/HealthAndSafety/Police/silent-witness-form.aspx>

**Anonymous reporting may limit the University's ability to fully investigate and resolve the complaint.**

**Non-Confidential Reporting options**

The following options for reporting are not confidential in that other University employees with a need to know so as to stop the behavior, conduct an investigation and resolve the matter, will be informed of the complaint.

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Julie Saker

Deputy IX Coordinator

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Sexual Misconduct, which includes sexual harassment, involves a variety of inappropriate behavior, the most serious being non-consensual sexual intercourse (sexual assault).

- **Reporting of sexual harassment:** students are encouraged to report complaints against students to Julie Saker, Deputy Title IX Coordinator. To report complaints against faculty or employees, students are encouraged to contact either Julie Saker, Deputy Title IX Coordinator or Scott Fitzgerald, Title IX Coordinator. The Deputy Title IX Coordinator will share complaints with the Title IX Coordinator, who will coordinate the next steps outlined below under “Next Steps.”

When a student reports a possible sexual harassment, the Deputy Title IX Coordinator and/or Title IX Coordinator will meet with the student to provide support and obtain detailed information about the student concern. Charges of sexual misconduct, including sexual harassment, will follow the steps and procedures listed below.

- **Reporting of sexual assaults and other sexual violence:** Students are encouraged to report sexual assaults and other sexual violence to the Otterbein Police Department or the Westerville Police Department immediately following the incident if possible. An officer from the Otterbein Police Department will meet with the student to take a report. The Complainant can make decisions about his/her level of involvement in an investigation and potential criminal or campus student conduct action. Otterbein Police will provide assistance in preserving relevant materials and will obtain, secure, and maintain evidence needed for criminal and student conduct proceedings. OPD will also provide information about counseling services and other measures the University can take to support the Complainant.

### **Law Enforcement Contact Information Includes:**

|                    |                           |
|--------------------|---------------------------|
| Otterbein Police   | 614.823.1222              |
| Westerville Police | 614. 882.7444 or<br>9.1.1 |

Following an incident, Complainant and/or their friends may contact the Associate Dean of Students who can explain all aspects of the reporting process, support measures, and possible next steps. If the Respondent (accused person) is an Otterbein employee, the Title IX Coordinator (Director of Human Resources) may join the Associate Dean of Students for investigative meetings if a complaint is filed.

Because of the sensitive nature of sexual misconduct, a Complainant may also turn to Residence Life staff or another staff/faculty member with whom they are comfortable. Information disclosed by a student to any University faculty or staff or Residence Life employee will need to be shared with the Associate Dean of Students and the Otterbein Police Department (OPD) and possibly others, as explained above. However, every attempt will be made to review the information and address the concern as confidentially as possible. A student's request to maintain confidentiality, and limit the investigation, will be considered by the Title IX Coordinator for approval. Factors to be considered include: safety of the Complainant and the community, the severity of the incident, the likelihood of repeated behavior by the accused, and the ability to limit further similar behavior through community education and environmental strategies.

Any false report of behavior or incidents alleging sexual misconduct, with an intent to mislead, is a violation of this policy.

### **Next Steps & Timeline**

A support person will be provided for each Complainant and the Respondent. The role of the support person is to provide assistance and serve as a resource of information. The Title IX Deputy Coordinator (Associate Dean of Students) will inform the Complainant and the Respondent of their rights, options of



criminal prosecution, medical assistance, and the University's complaint process. Confidential counseling, support resources, academic assistance, changes in class or campus employment schedules, and alternative housing assignments will be discussed as appropriate. Appropriate measures will be taken to avoid retaliatory action. Students may be required to sign a "No Contact Order" to restrict any form of contact between the Complainant and the Respondent.

Both the Complainant and the Respondent may choose to have an advisor other than the University provided support person to assist during the investigation and resolution process. Either party may also choose to proceed without an advisor. Both parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. The advisor may consult with the advisee quietly or in writing or outside during breaks, but may not speak on behalf of the advisee. Any advisor who steps outside of this defined role will be given one warning and then be asked to leave the meeting. (A substitute advisor will not be permitted at this meeting.) The advisor or a substitute advisor may be allowed to attend additional meetings at the discretion of the Title IX Coordinator.

Neither the Complainant nor the Respondent are restricted from discussing and sharing information relating to the complaint with others that may support them or assist them in presenting their case.

If aware of a possible sexual misconduct violation, the University may initiate an investigation and impose steps for the protection of the campus community. The University reserves this right even if a Complainant decides not to pursue charges, either criminally or through the campus student conduct process.

During the investigatory period, the University will take steps to assure that the alleged misconduct does not continue and that the Complainant is safe from further improper conduct or retaliation.

When appropriate, the University will take steps to correct discriminatory effects on the Complainant and others.

### **Informal Resolutions**

In cases other than non-consensual sexual intercourse or non-consensual sexual contact, a complainant may request or the Title IX Coordinator or Deputy Coordinator may propose that the parties explore an informal resolution. The informal resolution process is intended to provide prompt, effective, and mutually agreeable resolution but does not result in a formal investigation or disciplinary action against a respondent. Typically, an informal resolution involves a meeting with the Title IX Coordinator or Deputy Coordinator to explore mutually agreeable solutions. Participation is voluntary, and a complainant or respondent may terminate the informal resolution process at any time and request a formal resolution.

If the informal resolution does not prove effective in stopping the prohibited conduct, addressing its effects, and preventing its recurrence, the complaint may pursue formal resolution. Records of informal resolutions will be maintained by the Title IX Coordinator for tracking and enforcement purposes. The results of an informal resolution may be taken into account when fashioning a sanction in a subsequent proceeding.

### ***Timeline for the Investigation Process***

The timelines outlined below are anticipated timeframes in cases that do not present extraordinary circumstances, such as the temporary unavailability of evidence or witnesses. As far as possible, the University will inform parties of more specific dates and of any deviations in previously established timelines.

- **Interim Measures:** If warranted, as soon as reasonably practicable under the circumstances with no cost to the student. The University will continue to take these steps if sexual violence is found to have occurred.
- **Commencement of Investigation:** Ordinarily, within 7 business days of receipt of the complaint.

- **Notice of Outcome:** Ordinarily, within 60 working days of receipt of the complaint.
- **Deadline for Filing an Appeal:** The appealing party must submit their appeal within 7 calendar days of receipt of the written decision.
- **Decision on Appeal:** Ordinarily, within 14 days following the deadline for submission of the appeal.

## Investigation and Resolution

During the investigatory period, the University will take interim measures to assure that the alleged conduct does not continue and that the Complainant is safe from further improper conduct or retaliation.

The Associate Dean of Students and/or Student Affairs Hearing Officer or other assigned by the Title IX coordinator will serve as investigator(s) for complaints. The investigator(s) will meet with the Complainant to gather information about the allegation. Should the Complainant choose, a friend may be present at any investigative meeting. The friend may not ask questions or speak on behalf of the Complainant.

Before proceeding further, the Title IX Coordinator, with the advice and input of the investigator(s), will determine whether the conduct or language complained of would, if true, constitute a violation of this policy. If the conclusion is that the conduct or language complained of, even if true, would not constitute a violation of this policy, there will be no further investigation. The University will take any steps needed to remedy inappropriate conduct that does not constitute a violation of this policy.

If the conclusion is that the conduct would, if true, constitute a violation of this policy, the investigation will proceed as follows:

- The investigator(s) will contact the Respondent and witnesses, gathering other pertinent information and

following up with the Complainant, Respondent, and witnesses as needed.

- While the allegation is under investigation, the investigator will encourage all parties and witnesses to provide any additional information (including statements, e-mails, documents, or other facts) that may assist the investigation. The investigator will continue to receive and review this information until the investigation is closed.
- The investigator(s) will inform the parties at regular intervals of the status of the investigation.

### **Findings, Conclusions, and Recommendations**

Upon completion of the investigation, the investigator(s) will submit a report that will include factual findings as well as the investigator's conclusion of whether or not it is more likely than not (a preponderance of the evidence in legal terms) that there has been a violation of this policy. The report may also include recommendations for resolution, sanctions, or other appropriate action.

The report will be submitted to the Title IX Coordinator for final review. As Title IX Coordinator, the Director of Human Resources shall forward the final report, with recommendations for resolution, sanctions, or other appropriate action, to the respective Vice President or Provost for disposition.

If the Vice President's or Provost's conclusion is that it is more likely than not (preponderance of the evidence) that a violation of this policy has occurred, the Respondent will be advised in writing of the finding of a violation, the sanction, and the procedure for appeal. The Complainant will simultaneously be advised in writing that the investigation is complete, that a violation was found, that there will be sanctions against the Respondent, and the procedure for appeal.

If the investigation does not support a violation of any University policy, both the Complainant and the Respondent will be advised in writing of this outcome.

### **Appeals**

Both the Complainant and the Respondent have limited rights of appeal as set forth in the section below. An appeal must be submitted to the Title IX Coordinator (Director of Human Resources) within seven (7) days of receipt of the final report. If no appeal is submitted within that time, the conclusion and the recommendations of the report become final and the sanctions/recommendations shall be implemented.

If an appeal is submitted, the Title IX Coordinator will forward the report, the file, and the request for appeal to the President's Designee (Designee).

### **Grounds for Appeals**

The grounds for an appeal are as follows:

A procedural error occurred that significantly impacted the outcome of the investigation (e.g. substantial bias, material deviation from established procedures).

New evidence unavailable during the original investigation that could substantially impact the original finding or sanction. The appealing party must submit a summary of the new evidence, an explanation as to why the evidence was not available during the investigation, and its potential impact must be included.

The sanctions imposed are substantially disproportionate to the severity of the violation.

The Designee shall review the appeal and determine if it satisfies on the grounds for appeal. If the appeal does not meet the grounds for an appeal, the Designee will issue both parties a written decision that the appeal did not meet the grounds for the appeal and that the underlying decision was decided reasonably and appropriately. The Designee's decision to deny the appeal is final.

If the Designee determines that a material procedural (or substantive) error occurred, the Designee may return the complaint to the investigator and appropriate Vice President or Provost with instructions to cure the error. The results of the decision of the investigator and the appropriate Vice President or Provost are not appealable.

If the Designee determines that new evidence should be considered, the Designee may review the new evidence or refer the case to the investigator to reconsider in light of the new evidence only. The investigator will review the new evidence and submit an addendum to the original report for review by the appropriate Vice President or Provost. The reconsideration of the investigator and appropriate Vice President or Provost is not appealable.

If the Designee determines that the sanctions imposed are disproportionate to the severity of the violation, the Designee may increase, decrease or otherwise modify the sanctions. The decision is final.

The Designee will render a written decision on the appeal to all parties within fourteen days from receiving the written appeal.

### **Student Sanctions**

Sexual Misconduct is a Level IV Judicial violation. Sanctions may include Monetary Fine; Restitution; Restricted Access; Living Unit Probation; Living Unit Dismissal; Disciplinary Probation; Disciplinary Probation with Restrictions; Alcohol/Drug/Anger Assessment; Suspension; or Dismissal. (Definitions of these sanctions can be found in the Campus Life Handbook under Section 10 – Judicial Sanction Defined.)

A student found to be responsible for nonconsensual sexual intercourse may be dismissed from the University or suspended for a minimum of one semester, and additional sanctions as described above may be imposed.

**First time offenders who are found responsible for nonconsensual sexual intercourse** will receive a sanction to include at minimum the following:

- The offender may be suspended from the university for a minimum of one semester or up to dismissal;
- He or she will not be allowed on campus during the period of suspension;
- Contact with the victim/survivor is strictly forbidden;
- The offender must submit documentation of counseling received off-campus prior to return. The documentation must include an assessment of the student's ability to return to campus without threatening the safety of others, and the counselor must be licensed by the State of Ohio and approved by the Associate Dean of Students.

**Second time offenders found responsible for nonconsensual sexual intercourse** will receive a minimum of the following sanction:

- Dismissal from the University.
- Permanent exclusion from campus.

Student-Athletes who are found in violation of the sexual misconduct policy may receive additional sanctions from the Athletic Department, including but not limited to, suspension from athletics practices, contests, or other activities. Student-Athletes may also be suspended from the team for a designated period of time.

Criminal liability can be incurred in a sexual misconduct violation in penalties established in the Ohio Revised Code for all offenses deemed criminal.

### **Records**

Student conduct records/hearing reports are confidential as they are protected under the Family Educational Rights and Privacy Act.

Documentation of sexual misconduct proceedings, including a timeline, report, and formal correspondence with parties, are kept on file in the Student Affairs Office. All student conduct records resulting from major violations, including sexual misconduct, are kept for seven years. The Vice President for Student Affairs reviews files before expunging. Conduct files on students who have not completed their degree, and are of a more serious nature (felonies and/or expulsions) are kept indefinitely.

As required by federal law, Otterbein Police Department (OPD) maintains a daily crime log that is published on the OPD website. The crime log includes all the incidents reported to OPD. These records include the date/time of the incident, date of the report, general location, charges, and



current status of the investigation/resolution. **Student names and personally identifiable information are not included in the crime log.**

## **Student Rights**

### **Complainant**

- To have all allegations of sexual misconduct taken seriously and to be given a timely and respectful response.
- To be given amnesty (Complainant and witness) for minor student misconduct violations (such as alcohol or drug use) that is secondary to the sexual misconduct incident.
- To be informed of immediate measures for medical care and preservation of evidence if applicable.
- To be informed about University and community support services and resources.
- To be told about criminal and student conduct reporting options and the right to be assisted by campus authorities.
- To learn about possible protective measures, including but not limited to, change in class schedules, alternative housing assignments, campus employment, and restricted contact.
- To be offered a trained University faculty/staff member to serve as a support person and resource.

- To have an advisor other than the University provided support person to assist during the investigation and resolution process.
- To be have related policy, process and support information explained clearly and fully at every stage of the conduct process.
- To suggest names of witness to be interviewed during the investigation process and provide the investigator with questions that they would like asked of the complainant or witnesses.
- To review, consistent with FERPA, any evidence gathered.
- To be informed in writing of the outcome of the student conduct proceeding and appeal procedure at the same time the Respondent is informed.
- To be notified of any change in the investigation results prior to when they become final.
- To be notified when the results become final.

### **Respondent**

- To be informed of all allegations of sexual misconduct in a timely and respectful manner.

- To be informed about University and community support services and resources.
- To learn about possible measures, including but not limited to, change in class schedules, alternative housing assignments, campus employment and restricted contact.
- To be offered a trained University faculty/staff member to serve as a support person and resource.
- To have an advisor other than the University provided support person to assist during the investigation and resolution process.
- To be have related policy, process and support information explained clearly and fully at every stage of the conduct process.
- To suggest names of witness to be interviewed during the investigation process and provide the investigator with questions that they would like asked of the complainant or witnesses.
- To review, consistent with FERPA, any evidence gathered.
- To be informed in writing of the outcome of the student conduct proceeding and appeal procedure at the same time the Complainant is informed.

- To be notified of any change in the investigation results prior to when they become final.
- To be notified when the results become final.

## **Additional Resource Information Regarding Sexual Violence**

### **What to do if you are a victim of sexual violence:**

- **Get to a safe place.**
- **Contact someone who can help:**
  - Westerville Police Department -614-882-7444 or 911 for immediate threat
  - Otterbein Police Department – 614-823-1222 or 911
  - Your RA (resident assistant)
  - SARNCO (Sexual Assault Response Network of Central Ohio)  
24-hour-rape helpline at 614.267.7020
  - RAINN (Rape, Abuse and Incest National Network) 800.656.4673
  - A friend
- **Seek medical attention.** Trained volunteer advocates are available at local ER. Sexual Assault Nurse Examiners, who specialize in collecting evidence, are also available at the ER.  
Ohio Health Hospital is located at corner of Polaris and Africa Road (260 Polaris Parkway); St. Anne’s Hospital is located on Cleveland Avenue, north of Schrock Road (500 S. Cleveland Avenue).

- For the best **evidence collection** results: consider waiting to shower, bathe, douche, brush your teeth, urinate, defecate, smoke or change clothes until after going to the hospital. If you need to change your clothes, consider bringing the clothes you were wearing at the time of the assault with you, in a paper bag if possible.
- **Consider calling a friend or family member** that you trust.
- **Give yourself time to heal.** What happened to you is **not** your fault.

## **How to be a supportive friend to a sexual assault survivor**

**DO** listen to and believe your friend. Be mindful of your tone when your friend tells you about the assault—if you sound doubtful or like you do not believe your friend when (s)he discloses things related to the rape/sexual assault, your friend will feel unsupported and may be less likely to seek help from other sources.

**DO** validate your friend’s feelings about the assault. Tell your friend that what happened was not his/her fault, and that (s)he did not deserve it. When your friend says something to you that sounds like (s)he is blaming her/himself, remind him/her that (s)he did not deserve what happened.

**DO** help your friend find resources in case (s)he wants to report the assault or press charges. Looking up your school’s sexual assault policy and the legal protections offered through Title IX and the Clery Act, for example, can help your friend decide on what options to pursue. Some cities and states have victim compensation funds, which would help your friend pay for any medications (such as HIV prophylaxis, Plan B, etc.)

**DO** help your friend find your school’s victims advocate services which may be able to provide an array of support to

your friend, including assistance with school and other problems arising from the assault.

**DO** offer to spend time with your friend, and try to engage her/him in activities that are enjoyable and not related to assault. If these activities include watching movies or television together, be mindful of things that may trigger a memory from the assault (i.e. it may be best to avoid entertainment featuring graphic scenes of sexual assault or violence for a while.)

**DO** ask if your friend needs somewhere to stay. Offer to share your room or couch if it is feasible for you to do so. It is not recommended that someone who has just been assaulted stay alone, both for safety and mental health reasons, but your friend may not recognize that being in close proximity to the perpetrator is a threat to her/his safety and health. If your friend lives in close proximity to the perpetrator (such as the same dorm, for example), help her/him find another short-term place to stay while (s)he figures out what options or actions to take.

**DO** offer to walk your friend to her/his room/apartment and help pack necessary items, like clean clothes and toothbrushes, if she/he is going to be staying somewhere else. Your friend may be disoriented, have difficulty focusing on tasks, and/or be fearful of running into the perpetrator—having someone with them who knows about the assault can help your friend feel more safe.

**DO** continue to show your friend that you support and care about her/him. Small things can be really meaningful—cooking dinner together, picking up a favorite dessert or snack item, sending funny articles or YouTube videos. If your friend finds out something upsetting that reminds her/him about the assault, taking a couple of hours to spend time with her/him can make a big difference.

**DO** encourage your friend to be patient with her/himself in moving past the assault. It can take time, and expecting her/himself to move past it quickly ignores the level of trauma that sexual assault causes.

**DO** remind your friend that (s)he is intelligent, strong, and has people in her/his corner who love and support her/him. This may seem obvious to you, but your friend may feel a combination of emotions that are linked to self-blame, such as feeling stupid or weak.

**DO** tell your friend that (s)he is not crazy, and that (s)he isn't alone. Adjusting to having a disorder such as PTSD and reacting to things or events in a way that (s)he didn't used to before can be really confusing and make your friend feel as if something is wrong with her/him. It is important to tell your friend that her/his reactions are perfectly normal after what (s)he has been through.

**DO** warn your friend in advance if you suspect or know that the perpetrator will be in the same room or building (i.e. a party of a mutual friend or campus event). This will allow your friend the opportunity to decide whether or not to attend, and allow for your friend to plan a strategy for how to feel safe during the event or how to exit if feeling unsafe. Plan to be at any event with your friend if you think the perpetrator may be there, or coordinate with other friends who know about the assault so that someone else can be there.

**DO** understand your own limits. As much as you want to be there for your friend, licensed psychologists, counselors, and psychiatrists have the training to offer long-term support. Take care of yourself and your own mental health, and encourage your friend to see a counselor.

**DO NOT** push for explicit details about what happened, what your friend was wearing, what (s)he did to encourage or discourage the assault, or how much alcohol/substances were used.

**DO NOT** ask whether it was "violent." All acts of sexual assault are violent, regardless of how they look from the outside. Asking this question can invalidate the trauma that your friend experienced and make her/him feel unsupported.

**DO NOT** minimize what happened to your friend. Saying things like "Well, (s)he didn't hold you down, right?" make it seem as if your friend did not survive a vicious crime (see previous point). Making rape jokes, especially if your friend identifies as a male, can minimize the assault, enhance feelings of self-blame, or make your friend feel that something is wrong with him/her for not "wanting" the assault. Media portrayals of men can lead to the assumption that all men want sex all of the time, but this is far from true.

**DO NOT** force your friend to report the assault or go to the hospital. It is important for your friend to regain a sense of self-control--offering options and respecting the decision your friend makes can help him/her regain a sense of control over her/his life.

**DO NOT** tell other people without the permission of your friend. Your friend may want and need privacy at this time, and having her/his name thrown into a rumor mill can cause more anxiety and trauma. If in doubt, you can always ask—"Is it okay if I talk to my mom about this?" or "Do you want to also tell X and Y friend? I think they would want to support you through this too."

**DO NOT** set a timeline for when (s)he should be "over it." Sexual assault is traumatizing, and everyone handles it differently. It can take years for someone to process the violation that happened to them and their body, and PTSD can be a life-long disorder. Saying "You have to stop acting



like this” or “Don’t you think that’s enough?” can be very damaging to someone struggling to fully recover from a traumatic event.

**DO NOT** let your anger about what happened to your friend get the best of you. You may want to physically harm the perpetrator, but you can protect your friend and other members of your campus in other ways. Channel your anger creatively—use it to help your friend get justice through legal channels or to educate your peers and help create a campus environment that is supportive of survivors and intolerant of rape.

**DO NOT** walk on eggshells around your friend. You need to be sensitive, but your friend may want more than anything to feel a sense of normalcy and routine. Being yourself may help your friend feel more like her/himself.

(From [cultureofrespect.org](http://cultureofrespect.org))

## **Alcohol/Drugs and Sexual Violence**

Alcohol and drugs are involved in a large percentage (estimated up to 85%) of sexual assault on college campuses. Drugs and alcohol can lower inhibition and impact the ability to make decisions, including whether or not to be sexual with someone else. Alcohol and drugs can interfere with communication and increases misperception about the sexual intentions of others.

A person who is incapacitated by alcohol or drugs is not able to give consent.

Drug-facilitated sexual assault involves the intentional use of drugs or alcohol to incapacitate another to help facilitate sexual violence. Specific information includes:

- Drugging someone on purpose is considered a felony in most states. This includes someone putting a drug

or alcohol into your drink or food without your knowledge.

- Some drugs used to commit sexual assault include Rohypnol ("roofies"), GHB ("liquid ecstasy") and Ketamine ("special K"). Recreational drugs may also be used to facilitate assault.
- Many of these drugs are tasteless, odorless, colorless and difficult to detect in a drink. They are just as dangerous when put into water as they are in alcohol.
- These drugs may be taken voluntarily by the sexual assault survivor (and then the offender takes advantage of resulting vulnerability - seeking out the most wasted person in the room).
- They may also be ingested involuntarily through beverages including "spiked drinks," non-alcoholic drinks or food.

**Alcohol is the most commonly used substance to facilitate rape. A person who chooses to use alcohol or drugs does not ask or deserve to be sexually assaulted.**

## **Bystander Intervention**

Bystander Intervention is a philosophy and strategy for prevention of various types of prohibited conduct. It involves safe and positive options to prevent harm or intervene when there is a risk of prohibited conduct, such as dating violence, domestic violence, sexual assault, or stalking. If you are not comfortable intervening, due to safety or other concerns, you are encouraged to promptly contact the police to report the incident.

What can bystanders do to make a difference?

- **Believe someone** who discloses a sexual assault, abusive relationship, or experience with stalking or cyberstalking.

- **Be respectful** of yourself and others. Make sure any sexual act is OK with your partner if you initiate.
- **Watch out for your friends** – if you see someone who looks like they are in trouble, ask if they are okay. If you see a friend doing something shady, say something.
- **Speak up** – if someone says something offensive, derogatory, or abusive, let them know that behavior is wrong and you don't want to be around it.

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### Other Bystander Intervention Strategies

- **Silent Stare** - A disapproving look can be more powerful than words.
- **Humor** - Reduces the tension of an intervention and makes it easier for the person to hear you.
- **Group Intervention** - There is safety and power in numbers.
- **We're friends, right....?**
  - Reframes the intervention as caring and non-critical.
  - Example: "Hey Chad....as your friend I've gotta tell you that getting a girl drunk to have sex with her isn't cool, and could get you in a lot of trouble. Don't do it."
- **Distraction**
  - Snaps someone out of their "sexist comfort zone." Example: Ask a man harassing a woman on the street for directions or the time.
  - Allows a potential target to move away and/or to have other friends intervene
  - Example: Spill your drink on the person or interrupt and start a conversation with the person.

(Adapted from Men Can Stop Rape,  
[www.mencanstoprape.org](http://www.mencanstoprape.org).)

## **Risk Reduction Tips**

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may help to reduce the risk of experiencing a non-consensual sexual act. Below, suggestions to avoid committing a non-consensual sexual act are also offered:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.

- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.

(From ATIXA Model Sexual Misconduct Policy)

## **Recognizing Warning Signs of Relationship Abuse**

Relationship abuse is not uncommon, and it is a serious issue. Relationship abuse is real and happens more often than you think.

Relationship abuse is not just violent acts. Relationship abuse is manifested in physical, emotional, psychological and verbal acts with the desired outcome being control over another person. Although most commonly a crime against women, anyone can be a victim of abuse, and it can occur in both heterosexual and same sex relationships.

Relationship abuse is not a private matter. Isolation can be one of the most powerful tools an abuser can use to control their partner. All too often we fail to get involved because we either think their relationship is not our business, or we are afraid and don't know how to help. Unfortunately, this only reinforces the abuser's sense that he/she has the right to treat their partner that way. Only by speaking out and recognizing abuse as an unacceptable social behavior can the cycle be broken.

(From itsabuse.com)

### **Signs of an Abusive Relationship**

There are many signs of an abusive relationship. Here are some of them:

- One partner criticizing, humiliating or yelling at the other.
- One partner treats the other so badly that it is embarrassing in front of friends or family.
- One partner has a bad and unpredictable temper.
- One partner acts excessively jealous and possessive.
- One partner keeps the other from seeing friends or family.
- One partner threatens to commit suicide if the other leaves.
- One partner forces the other to have sex.

- One partner is constantly checking up on the other.

Healthy relationships are based on equality and respect. Partners make decision together and openly discuss issues like relationship problems and sexual choices. They enjoy spending time together but can be happy apart.

Unhealthy relationships are based on attempts to control the other person. One person tries to make most of the decisions. He or shay may pressure his/her partner about sex or refuse to see how their actions can hurt. In an unhealthy relationship, an individual may feel like she/she should only spend time with his/her partner.

Abusive relationships are based on power and control. One person makes all of the decisions – about sexual choices, friend groups, boundaries, even what’s true and what’s not. Partners spend all of their time together and one may feel like he/she cannot talk to others.

(From [loveisrespect.org](http://loveisrespect.org))



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