



OAKWOOD
UNIVERSITY

SEXUAL MISCONDUCT &
RELATIONSHIP VIOLENCE POLICY



UNIVERSITY DEFINITIONS



UNIVERSITY DEFINITIONS

There are many terms used in issues of sex discrimination. The following will provide some common definitions and examples of behaviors termed sex discrimination.

Consent

“Consent” must be informed, voluntary, and mutual and can be withdrawn **AT ANY TIME**. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person. Example: Verbally agreeing to be kissed and not giving the person permission to remove your clothes.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

Incapacitation

An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct

Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law. Example: Touching in an intimate way or making other advances of a sexual nature.

Harassment

The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that places a person in a hostile or fearful environment where the persons safety is in jeopardy.

Sexual harassment

Unwelcomed conduct of a sexual nature, including, but not limited to, unwelcomed sexual advances, requests for sexual favors, or other verbal or nonverbal conduct of a sexual nature. This includes *rape*, *sexual assault*, and *sexual exploitation*. In addition, depending on the

facts, dating violence, domestic violence, and stalking may also be forms of sexual harassment. Examples: Persistently intrusive or sexually explicit questions or spreading rumors about a person's sexuality.

Gender-based harassment

Unwelcomed conduct of a nonsexual nature based on a student's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.

Conduct is considered "unwelcomed" if the student did not request (verbally and/or in writing) it and considered the conduct to be undesirable or offensive. Unwelcomed conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones and or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcomed conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcomed conduct can involve persons of the same or opposite sex.

Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that a student may have welcomed some conduct does not necessarily mean that a student welcomed other conduct. Also, the fact that a student requested (verbally and/or in writing) conduct on one occasion does not mean that the conduct is welcomed on a subsequent occasion. Example: Insults or derogatory actions directed towards a person based on their gender.

Domestic violence

Any incident resulting in the abuse, assault, harassment, or attempt or threats thereof, between family and or household members. Example: Name calling or making disparaging remarks about an individual's abilities and talents and damaging an individual's relationship with her or his children.

Dating violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party is dating violence. The existence of such a relationship shall be determined based on a consideration of the following factors: Example: A partner isolates you from your friends and family by demanding your time, or threatening you when you try to spend time with others.

- the length of the relationship
- the type of relationship
- the frequency of interaction between the persons involved in the relationship

Stalking

Intentionally and repeatedly following or harassing another person, and making an expressed or implied threat to put that person in fear of death or serious physical harm. Example: Disclosing or reporting party's personal information the responding party has learned about him or her or their daily activities and interests.

Sexual Assault

a. Non-Consensual Sexual contact is:

Any intentional sexual touching

- however slight
- of any part of one person's body with any part of another person's body or object,
- by a man or a woman upon a man or woman,
- that is without consent and/or by force. Force is unwanted sexual touching.

b. Rape - Non-Consensual Sexual Intercourse is:

Any sexual intercourse

- however slight
- with any part of a person's body or an object
- by a man or woman upon a man or woman,
- that is without consent and/or by force. Force is unwanted sexual intercourse.

Intercourse includes, but is not limited to: vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger; or oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Sexual exploitation

Occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's *consent*. Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's *consent*;
- Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not *consent* to such disclosure and objects to such disclosure; and,
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's *consent*.

Statutory Rape

In Alabama, it is illegal for an adult (someone 18 or older) to have sex with a minor (someone younger than 16), even if the sex is consensual. The age of consent in Alabama is 16 years old. Age of consent: this is the age in which an individual can legally consent to sexual intercourse.

Other Important Definitions

Retaliation

Retaliation is acts, or words taken against an individual because of the individual's participation in a protected activity that would discourage a person from engaging in the reporting, investigation, or resolution of an alleged violation of this policy. This may include intimidation, threats, coercion, or adverse employment or educational actions. Individuals who have a concern about potential or actual retaliation should contact the Title IX Coordinator or Deputy Title IX Coordinator.

Responding Party

The alleged perpetrator or the individual responding to any form of sex discrimination.

Reporting Party

The alleged victim or individual reporting the issue of sex discrimination.

Coercion

Use of force or intimidation to obtain compliance; or force or the power to use force in gaining compliance. Example: Using subtle pressure, drugs, alcohol or force to have sexual contact against a person's will and the person ends up engaging in some form of sexual activity when they don't want to.

Force

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 that overcome resistance or produce consent.

Preponderance of Evidence

This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. The evidence must prove that it is more likely than not that the facts presented are true.

OPTIONS FOR SEEKING HELP

If you or someone you know has shared with you that they may have been a victim of sexual assault, the following procedures are encouraged.

1. Go to a safe place. This could include the Office of Public Safety, Health and Counseling Services, the Residence Hall Dean Office or call 911.
2. Call someone whom you trust and/or,
3. Seek a medical professional. There are many benefits to doing so. Seek medical care at an emergency room or hospital of your choice. It is important to have a medical exam to check for physical injuries and disease, to dispense pregnancy information and prophylaxis if necessary, and to collect evidence should you decide to prosecute. If you are planning on filing a criminal complaint, the medical exam should be completed in a timely manner to preserve any and all evidence. You may have the exam and then decide not to prosecute.

If you want to prosecute there are steps you can take to help preserve evidence. You should avoid changing clothes, bathing, douching, urinating, or defecating before arriving at the ER. Urine samples will be necessary to test for any date rape drugs. Bring extra clothes with you, as clothing may be held as evidence.

PROCEDURES FOR HANDLING SEXUAL
MISCONDUCT, SEXUAL ASSAULT, DOMESTIC
VIOLENCE, DATING VIOLENCE, AND STALKING



PROCEDURES FOR HANDLING SEXUAL MISCONDUCT, SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

GRIEVANCE AND ADJUDICATION PROCEDURES

These procedures apply to reports filed by students or on their behalf alleging sexual misconduct, sexual assault, domestic violence, dating violence, or stalking carried out by a university employee, a university student, or a third party.

Confidentiality: The university encourages reporting parties and witnesses to report the matter to an appropriate university official. Reports are what gives the university the opportunity to investigate and address any violations; they also provide the opportunity to ensure that appropriate care and resources are provided for both the reporting party and the responding party. **At the same time, before a reporting party reveals information (name of the responding party, details, etc.) they should understand that only professional counselors, physicians, pastors and chaplains are able to retain confidentiality and all other faculty and staff are required to notify the designated university official of the reported incident. Any student who is under the age of 19 is considered a minor in Alabama unless they have been emancipated by the court. Parents of minors will be contacted.** The Assistant Vice President for Student Services, is the Title IX Coordinator for Oakwood University and all questions regarding Title IX should be directed to her.

The University will inform and obtain consent from the reporting party before beginning an investigation. If the reporting party requests confidentiality or asks that the complaint not be pursued, the university will take all reasonable steps to investigate and respond to the complaint consistent with these requests. If the reporting party requests that his or her name or other information not be disclosed to the responding party, the university will evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students, and the reporting party should be aware that the university's ability to respond should be limited. Title IX prohibits retaliation. The university will take steps to prevent retaliation and will take strong responsive action if retaliation occurs.

NOTE IMPORTANT CONTACTS:

- Oakwood University Police Department is available 24 hours a day, 7 days a week by calling 257-726-7371. Students are also encouraged to dial 911 in cases of emergency. Incidents that occur off-campus will likely fall in the jurisdiction of either Huntsville Police Department or Madison County Sheriff's Department. Although encouraged, students are not required to notify OUPD or other law enforcement authorities.
- The university's Title IX Coordinator is available by calling 256-726-7506 or by emailing tixc@oakwood.edu.
- Vice President for Student Services 256-726-7396
- Residence Hall Deans
- Department of Human Resources (256) 427-6200
- Crisis Services of North Alabama 256-716-1000

STEP 1: REPORT IS MADE

Once an individual “reporting party” reports an alleged incident of sexual harassment, sexual violence, and/or sexual misconduct to any official university employee, that employee must immediately notify his or her supervisor, and contact must be made with the Assistant Vice President for Student Services, if it is a student, and the Director of Human Resource Management if it is an employee. If it involves students and faculty/staff or student workers then both should be notified.

The reporting party will be encouraged to seek out medical care, offered counseling, and provided the opportunity to file an official report with campus police, local police or both.

The responding party will receive written notification prior to any initial interview/investigation of the allegations. The notification will include sufficient details for the responding party to prepare a response to the allegations.

Timely Warning

Community members, students, faculty, staff and guests are encouraged to report all crimes and public safety related incidents to Oakwood University Police Department in an accurate and timely manner. Crime alerts are published when incidents on or near the campus could present threats to the university community. Crime alerts will not contain information regarding the reporting party’s identity. The warning will be issued both through the Oakwood email system and text messaging system to students, faculty, and staff.

Note: A student has the option to pursue a criminal complaint with the appropriate law enforcement agency, to pursue a complaint through the University Student Conduct Process, or to pursue both processes consecutively or concurrently.

STEP 2: INVESTIGATION/INTERIM MEASURES

Time Frame

Oakwood University will conduct a full and fair investigation. This investigation will be prompt and under normal circumstances take up to 60 days to complete. However, some cases may take longer depending on the severity and the time when the incident occurred. For example, if an offense occurs at the end of the semester, the investigation may go beyond the 60 day period. Regardless of the time frame both the responding party and the reporting party will be notified of the outcome within three business days of the decision. All students have the right to appeal (see Appeal Process).

The reporting party will meet with a trained investigator. This meeting will be in addition to any meeting with police, and, if practicable, will follow any meeting with police. The reporting party may still meet with the trained investigator if he or she declines a meeting with police. The investigator will gather all incident reports, statements, text messages, email, pictures, and interview all parties involved. This process will include the opportunity for both

the reporting party and the responding party to present witnesses and supporting documentation or information. Following the gathering of all information associated with this case, the investigator will complete a written and thorough summary of findings along with all supporting documentation. This document will be submitted to the Title IX Coordinator for review to determine whether any university sexual misconduct policies have been violated. The Title IX Coordinator can interview those involved if deemed appropriate. If it is determined that a violation of university policies has likely occurred, the incident will be forwarded to the Title IX Student Conduct Committee for review. Based on the nature of the complaint, the university will take appropriate interim measures to minimize contact and /or potential retribution from a respondent (or any associated group related to the case) to individuals making a complaint of alleged sexual harassment, sexual assault, sexual exploitation, stalking, dating violence, and domestic violence. These measures may include, but are not limited to the following: modification to class schedule, work assignments, living arrangements (all without negatively impacting the student), limiting contact with the responding party depending on the circumstance, and interim suspension pending final outcome. These modifications will be made with due deference to provide balance and equity for both the reporting party and the responding party in the process.

Interim Suspension

In certain circumstances, the university may impose a university or University Housing suspension prior to the Student Conduct Hearing.

1. Interim suspension may be imposed only when the university determines, in consultation with university officials as appropriate, that it is necessary:
 - a) to ensure the safety and well-being of members of the university community or preservation of university property;
 - b) to ensure the student's own safety and well-being; or
 - c) if the student poses an ongoing threat of, disruption of, or interference with, the normal operations of the university.
2. During the interim suspension, a Student shall be denied access to the residence halls and/or to the university premises (including classes) and/or all other university activities or privileges for which the student might otherwise be eligible, as the university determines to be appropriate.
3. The Student should be notified in writing of the interim suspension, its terms, and the reasons for the interim suspension. The notice should specify the Student's right to request a meeting at which the Student may show cause why his or her continued presence on university premises or at university activities does not constitute a threat. The interim suspension and any review of this status does not replace the regular hearing process.

STEP 3: RESPONSE TO THE INVESTIGATION

The standard of proof used for hearing cases of sex discrimination and sexual misconduct will be preponderance of the evidence, or "more likely than not." Findings of responsible or not

responsible for sex discrimination cases will be made based on this standard of proof in determining if a violation occurred. Based on the findings gathered from the investigation, the Title IX Coordinator (Assistant Vice-President for Student Services) in consultation with the Deputy Title IX Coordinator (Director, Human Resource Management) will make a determination on the resolution of the allegations. The resolution will be one of the following:

A. No Further Action

Based on the information including incident reports, supporting documentation (i.e text messages, email, pictures, statements, and any other information), interviews, and summary of findings from the investigators, the university may choose not to take any further action. All investigators are trained in how to conduct investigations.

B. Formal Resolution

The case is forwarded to the Title IX Student Conduct Committee for appropriate resolutions. The Investigative Report will be given to the Title IX Student Conduct Committee chair who will make a determination of charges and schedule a hearing with the Title IX Student Conduct Committee. All Student Conduct hearings will be tape recorded for documentation purposes.

C. Informal Resolution

An informal resolution, such as mediation can be used if it is appropriate and all parties voluntarily involved agree. The mediation process is facilitated by the Title IX Coordinator in consultation with the Deputy Title IX Coordinator.

The university will inform the reporting party and the responding party in writing of the resolution of the investigation.

STEP 4: Hearing Steps and Sanctions

The Title IX Student Conduct Committee is an adjudicating body drawn from faculty and staff to interview, evaluate, and decide the degree of culpability for a reported incident. The terms of service are staggered (generally in increments of two years) for purposes of continuity, and it functions under the supervision of the Assistant Vice President for Student Services, who is a non-voting member.

All students involved in Title IX Student Conduct Committee hearings should appear in person to discuss the incident and bring clarity to what happened. They may come with witnesses who can help clarify the truth. The Title IX Student Conduct Committee will hear and/or act on a case even if the student fails or refuses to appear. The committee has the right to control the proceedings and the presentation of the case. The student has the right to bring one (1) advocate of their choosing which could include a faculty/staff member, parent or attorney. This advocate cannot participate in the proceedings and has a non-speaking role. Advisors will not be permitted to make comments, pass notes, or otherwise disrupt the Title IX Student Conduct Committee hearing. Advisors who are disruptive during the hearing may be required to leave. If a student wishes to add an advocate to the list of individuals who will

attend the conduct hearing, they should notify the Assistant Vice President for Student Services at least five (5) business days prior to the actual student conduct meeting. The reporting party and the responding party will be notified within seven (7) business days about when the Student Conduct hearing will take place. This notification will include the date, time, and location.

Student Conduct hearings are confidential and closed to all but the responding party, reporting party, witnesses, advisors, and Committee members. The University reserves the right to permit a member of the University's General Counsel to participate as an observer.

The steps are as follows:

1. Introductions: The hearing will be facilitated by the Title IX Student Conduct Committee chair and begin with introductions.
2. Presentation of investigator report: The lead investigator will present the report to the Title IX Student Conduct Committee.
3. Questioning:
 - Members of the Title IX Student Conduct Committee will be given the opportunity to ask questions of the responding party, the reporting party and/or the investigator.
 - The responding party and reporting party will be interviewed by the committee separately.
 - Questions about prior sexual conduct with any individual other than the alleged perpetrator are prohibited
 - Evidence of a prior consensual dating or sexual relationship between the responding party and reporting party does not imply consent or preclude a finding of sexual misconduct.
4. Witnesses: Any witnesses or individuals with relevant information will then be called. Video footage and other types of evidence will be reviewed. The Title IX Student Conduct Committee will be allowed to ask questions of witnesses. Witnesses will be called as needed, questioned, and dismissed. Witnesses will be present for only the portion of the questioning that applies to them directly. Witnesses will not sit in on the entire hearing or statements/questioning of other parties.
5. Statements: The reporting party and the responding party will then both be given a chance to make a statement after all questioning is finished.
6. Dismissal: At the conclusion of the question and answer period with each person(s) students, and all those involved, will be dismissed and the Title IX Student Conduct Committee will start the work of determining the final outcome.
7. Deliberation: The Title IX Student Conduct Committee will deliberate and make a determination of responsible or not responsible for the responding party.

8. Sanctioning: If a determination of responsible is reached, the committee will then assign sanctions. In addition, if the committee finds other violations or threats that impact the university community – faculty, staff and students – added measures will be taken.

Possible Sanctions

Sanctions for violating university regulations could include: disciplinary warnings, community service, counseling/counseling assessment, restitution/fines, change or residence, citizenship probation, suspension, expulsion, dismissal or combination. The above sanctions are adopted by Oakwood University with the intent to provide flexibility to the disciplinary process (so that those responsible for student conduct can consider the nature of the violation, the circumstances under which it was committed, and the culpability of the offender, and then choose the appropriate penalty from a range of possibilities). Oakwood University reserves the right to amend, change, and/or determine what sanctions are to be imposed.

Notification of Outcome

The reporting party and the responding party will be simultaneously informed in writing of:

1. The outcome of the Title IX Student Conduct Committee hearing; and
2. The procedures for both parties to file a request for an appeal if needed.

Notification will be emailed to the reporting party and responding party via their Oakwood University email address.

Note: The university reserves the right to place a hold on the transcript and/or registration of any student who fails to meet any sanctions. All pending conduct matters must be resolved prior to a student's graduation, transfer from or continued education at Oakwood University. The Student Code shall apply to a Student's conduct even if the Student withdraws from school while a disciplinary matter is pending.

STEP 5: Appeal Process

Students have the right to appeal. However, there are certain conditions that must be met.

1. Grounds for Appeal: An appeal will be considered valid only if it meets one of the following criteria:
 - a. Information is available which was not available at the time of the decision, but which would have affected the decision;
 - b. The case was initiated or conducted according to improper procedure and the decision was materially influenced as a result of the improper procedure;

- c. The decision embodies a sanction that is inconsistent with the nature of the offense. (“Inconsistent” in this sense should be interpreted to mean the degree of severity of the sanction is not reasonable in light of the offense); and
- d. The facts were not sufficient to justify the findings.

2. Limitations on Appeals of Sanctions: Appeals of sanctions and related specific restrictions/conditions, imposed at any given level of authority, are as follows:

- a. Probation, social restrictions, monetary fines, community service work, and hall suspensions may be appealed one administrative level in the system above the authority imposing the sanction. (i.e., if the sanction begins with an Assistant Residential Life Coordinator (Assistant Dean), it can be appealed to the Residential Life Coordinator (Dean), the Assistant Vice President for Student Services, and the Vice President for Student Services.)
- b. Suspensions, Expulsions, and/or Dismissals may be appealed to the university president or designee.

3. Procedure: The typewritten appeal shall be submitted within 24 hours after notification (written form) of a decision that has been received by the student by email as set forth above. The appeal should be addressed to the appropriate university official/authority with a copy to the university official/authority that rendered the decision that is being appealed. The appeal should clearly delineate:

- a. the specific charges;
- b. The action or decision reached by the lower authority; and
- c. The ground(s) and rationale upon which the appeal is based.

All relevant materials pertaining to the case will be forwarded to the appropriate office within 48 hours after the appeal is filed. It is the responsibility of the authority from which the appeal is being made to provide the necessary information to the appellate authority.

4. Responsibility of the Appellate Authority: The appellate authority will normally render a decision on the appeal within 72 hours after it is received. The decision may be to:

- a. Reject the Appeal - a decision to reject an appeal should be based on and is indicated by a finding of no procedural and/or substantive discrepancies in the action(s) and/or decision(s) of the lower authority. This action implies agreement with the lower hearing authority.
- b. Grant the Appeal - a decision to grant an appeal should be based on and is indicated by a finding of procedural or substantive discrepancies in the action(s) and/or decision(s) of the lower authority. This action implies disagreement with the lower hearing authority. If the appeal is granted, the appellate authority may:

1) Alter or modify the sanctions imposed by the lower authority. This action implies agreement with the findings and disagreement with the sanctions. Any changes to the sanctions should be within the specified parameters for the type of infraction involved;

OR

2) Reverse the findings. This action implies disagreement with the findings and, consequently, the sanctions imposed by the lower authority. A review of the initial hearing is indicated and, depending on the circumstances, may be conducted by the appellate authority or ordered reheard by the lower authority.

c. Send it back to the original authority to conduct further proceedings on the matter or ask for a completely new hearing.

If it is determined that grounds for a valid appeal exist, the appellate authority will notify, in writing, all concerned parties of the action being taken. If a new hearing is ordered, it should be scheduled within 48 hours when possible. In these instances, the case will be presented in its entirety.

Students, who have been suspended/expelled/dismissed by the initial authority and choose to appeal the decision, may be required to leave campus or be subject to restrictions during the course of the appeal. In these cases, every effort will be made to expedite the appeal process. Further, the university reserves the right to deny re-admission to any student who has been sanctioned. Once the appeal decision has been made, it is final and no further appeals will be granted.

*Note: Exceptions to the specified time limitations should be allowed when in conflict with weekends, holidays, and other times when administrative and academic offices are closed. In the absence of administrative officials, the 72 hours rule may be waived.

** The appellate authority that grants or reverses the findings becomes the official signatory and will sign any official documents, papers, etc. needed by the student who filed the appeal.



OAKWOOD UNIVERSITY

7000 ADVENTIST BLVD NW,
HUNTSVILLE, AL 35896
WWW.OAKWOOD.EDU
256.726.7000