



**OAKWOOD
UNIVERSITY**

TITLE IX 2024-2029

**SEXUAL MISCONDUCT &
RELATIONSHIP VIOLENCE POLICY**



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PART I POLICY

A. OBJECTIVE

Oakwood University is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from sexual harassment, discrimination, sexual misconduct and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity aspects of the educational program or activity, the university has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of sexual harassment, sexual misconduct or retaliation that reflect university policy, our Christian values, and remains in compliance with Title IX Regulations. Oakwood University values, respects, and upholds the equal dignity of all members of this community and strives to balance the rights of the parties in the grievance process during what is often a very difficult time for all those involved.

All members of the university community are expected to conduct themselves in a manner that does not infringe the rights of others, whether on university premises or at any off-campus location. Sexual harassment, which include sexual misconduct and sexual assault, is a form of sex discrimination. Dating violence, domestic violence, stalking, and sexual exploitation could also be considered forms of sexual discrimination which are prohibited under Title IX and by University policy. Due to the seriousness of these offenses, the university has adopted specific policies and procedures to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. Oakwood University also adheres to all federal, state and local civil rights laws prohibiting discrimination in employment and education. The university does not discriminate in its admissions practices, in its employment practices, or in its educational programs or activities based on sex/gender. The law and university policy prohibit discrimination and harassment of employees or discrimination and harassment between members of the university community: for example, between an instructor and a student, between two students, or between a student and an applicant or campus guest.

Oakwood University also prohibits retaliation against any person participating in good faith in any discrimination investigation or complaint process internal or external to the institution; for bringing a complaint of discrimination or harassment; for assisting someone with such a complaint; for attempting to stop discrimination or harassment. Any member of the campus community, guest or visitor who acts to deny, deprive, or limit the educational, employment, or social access opportunities and/or benefits of any member of the Oakwood University community on the basis of sex is in violation of this policy. Any person may report sexual harassment, discrimination, or other forms of sexual misconduct, whether or not the person reporting is the person alleged to have experienced the conduct. Reports may be made by telephone or email using the contact information listed below for the Title IX Coordinator. Reports can also be made via "MyOakwood" website by clicking the link https://oakwood-advocate.symplicity.com/public_report. Reports can be made any time, including during non-business hours with either way above or contacting Oakwood University Police Department (256) 726-7371.

This policy applies in all college programs and activities, including, but not limited to, discrimination in athletics, instruction, grading, and university employment. It is central to the values of the university that any individual who believes they may have been the target of unlawful discrimination or harassment feel free to report their concerns for appropriate investigation and response, without fear of retaliation or retribution.

Questions regarding Title IX or this policy, including its application and/or concerns about noncompliance, should be directed to the Title IX Coordinator. All complaints or any concerns about conduct that may violate this policy and retaliation should be filed with the university's Title IX Coordinator or Deputy Title IX Coordinator.

Ricquelle Lassonnier, Esq
Resident Director Carter Hall/Title IX Coordinator
Blake Center Administration Building, First Floor
7000 Adventist Blvd.
Huntsville, AL 35896
256-479-7223
256-726-8339
rlassonnier@oakwood.edu

Robert Mann
Resident Director Edwards-Peterson Hall/Title IX Deputy Coordinator
Blake Center Administration Building, First Floor
7000 Adventist Blvd.
Huntsville, AL 35896
256-617-4617
256-726-8339
rmann@oakwood.edu

Report or questions regarding Title IX may also be directed to:

Headquarters:

Office of Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201

Regional Office:

Office for Civil Rights
U.S. Department of Health and Human Services
Sam Nunn Atlanta Federal Center, Suite 16T70
61 Forsyth Street, S.W.
Atlanta, GA 30303-8909
(800) 368-1019

B. SCOPE OF POLICY

The purpose of this policy is the prohibition of sexual harassment, sexual misconduct, and retaliation. When an alleged violation of this policy is reported, those allegations are subject to review and resolution using the university's grievance process related to this policy. When the respondent is a member of the Oakwood University community, this grievance process will be available regardless of the status of the complainant, who may or may not be a member of the Oakwood community. The Oakwood community includes students (including traditional, graduate, and LEAP students), student organizations, faculty, administrators, staff and third parties such as guest, visitors, volunteers, invitees, and campers.

The grievance procedures may be applied to incidents, patterns of behavior and/or the campus climate, all of which may be addressed and investigated in accordance with this policy.

C. UNIVERSITY DEFINITIONS

1. **Actual Knowledge:** Official notice of sexual harassment or misconduct allegations to the university's Title IX Coordinator or any university official who has authority to institute corrective measures on behalf of the university.
2. **Advisor:** A person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination of the party at the hearing, if any.
3. **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.
4. **Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment based on a protected class or retaliation for engaging in a protected activity.
5. **Confidential Resource:** An employee who is not a mandated reporter of notice of harassment and/or retaliation.
6. **Consent:** The permission for something to happen or agreement to do something. 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.
7. **Day:** A business day when the university is in normal operation. Friday is also considered a "day" even though work hours end at 12 noon.
8. **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 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.
 - a. The length of the relationship
 - b. The type of relationship
 - c. The frequency of interactions between the people involved in the relationship.
9. **Discrimination:** Conduct based on sex/gender that excludes an individual from participation, denies the individual the benefits of, treats the individual differently, or otherwise adversely affects a term or condition of an individual's employment, education, living environment, or participation in a university program or activity.
10. **Domestic violence:** any incident resulting in the abuse, assault, harassment, or attempt or threats thereof, between family and or household members; for Example: Name calling or making disparaging remarks about an individual's abilities and talents and damaging an individual's relationship with his or her children.
11. **Education program or activity:** Locations, events, or circumstances where the university exercises substantial control over both the respondent and the context in which the sexual harassment occurs and includes any building owned or controlled by a student organization that is officially recognized by the university.
12. **Final Determination:** A conclusion by a preponderance of the evidence that the alleged conduct did or did not violate policy.

13. **Finding:** A conclusion by preponderance of evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
14. **Force:** 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.
15. **Formal Complaint:** A document submitted or signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment or retaliation for engaging in a protected activity against a respondent and requesting that the university investigate the allegation.
16. **Formal Grievance Process:** A method of formal resolution designated by the university to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations and with Sixth Circuit rulings.
17. **Gender-based harassment:** Unwelcomed conduct of a nonsexual nature based on a student’s actual or perceived sex, includes 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/ 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 welcomed. 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 toward a person based on their gender.
18. **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 person’s safety is in jeopardy.
19. **Hearing Decision maker or Panel:** Refers to those who have decision-making and sanctioning authority within the university’s formal grievance process.
20. **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.
21. **Investigator:** The person or persons charged by the university with gathering facts about an alleged violation of this policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
22. **Mandated Reporter:** An employee of the university who is obligated by policy to share knowledge, notice, and/or reports of harassment and/or retaliation with the Title IX Coordinator.
23. **Notice:** An employee, student, or third party who informs the Title IX Coordinator or other official with authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
24. **Official with Authority (OWA):** An employee of the university explicitly vested with the responsibility to implement corrective measures for sexual harassment and/or retaliation on behalf of the university.
25. **Preponderance of the Evidence:** The standard of evidence applied in determining a violation of this policy. Generally considered to be “more likely than not” or “the greater weight of the evidence.”

26. **Remedies:** Post-finding actions following a determination of a violation of this policy, provided to the complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the university's educational program.
27. **Reporting Party:** The alleged victim or individual reporting the issue of sex discrimination.
28. **Respondent/Responding Party:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, sexual exploitation, or retaliation for engaging in a protected activity.
29. **Resolution:** The result of an informal or formal grievance process.
30. **Retaliation:** 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 a 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.
31. **Sanction:** A consequence imposed by the university on a respondent who is found to have violated this policy.
32. **Sexual Assault**
- a. Non-Consensual Sexual contact is:
 - i. Any intentional sexual touching
 1. However slight
 2. Of any part of one person's body with any part of another person's body or object
 3. By a man or a woman upon a man or woman
 4. That is without consent and/or by force. Force is unwanted sexual touching.
 - b. Rape – Non-Consensual Sexual Intercourse is:
 - i. Any sexual intercourse
 1. However slight
 2. With any part of a person's body or an object
 3. By a man or woman upon a man or woman
 4. That is without consent and/or by force. Force is unwanted sexual intercourse.
33. **Sexual Exploitation:** When a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of such behavior that could rise to the level of sexual exploitation include:
- a. *Prostituting another person*
 - b. *Recording images (e.g. video, photograph) or audit of another person's sexual activity, intimate body parts, or nakedness without that person's consent*
 - c. *Distributing images (e.g., video, photograph) or audit of another person's sexual activity, intimate body parts, or nakedness, if that individual distributing the images or audio did not consent to such disclosure and objects to such disclosure.*
 - d. *Viewing another person's sexual activity, intimate body parts, or nakedness in a place where the person would have a reasonable expectation of privacy, without that person's consent.*
34. **Sexual Harassment:** The umbrella category includes the offenses of sexual harassment, sexual assault, stalking, dating violence, domestic violence, rape, and sexual exploitation.
35. **Sexual Misconduct:** Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below under Alabama state law.
36. **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.
37. **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 at which an individual can legally consent to sexual intercourse.

38. **Title IX Coordinator:** The official designated by the university to ensure compliance with Title IX and the university's Title IX program. References to the coordinator throughout this policy may also encompass a designee of the coordinator for specific tasks.
39. **Title IX Team:** The Title IX Coordinator, any deputy coordinators, and investigators responsible for overseeing designated elements of Title IX. Also known as the Title IX Committee.

D. TITLE IX COORDINATOR

The Title IX Coordinator is:

- Charged with coordinating the University's compliance with federal civil rights laws.
- Not an advocate for either the complainant or the respondent.
- Will explain to both parties the informal and formal processes outlined below and the confidentiality provisions.
 - Where appropriate, will provide both parties information about supportive measures including options for obtaining no contact orders, medical and counseling services; information about making a criminal report; information regarding academic support; information about receiving advocacy services; and information about other helpful campus and community resources and safety measures.
- Will offer to coordinate with other campus officials, when appropriate, implement interim measures such as no-contact orders, rearrangement of living arrangements, or academic accommodations.
- Will describe the process of a fair and impartial investigation.
- Will explain to both parties their rights to have a support person of their choice with them during their interviews and during the hearing stage of these procedures.

If an individual does not want to pursue a complaint, the Title IX Coordinator:

- Will inform the individual that the university is limited in the actions it can take without the cooperation of the individual.
- Will explain the full scope of supportive measures available.

The individual making the report ("Reporter") is encouraged to provide as much detailed information as possible to allow the Title IX Coordinator to investigate and respond as appropriate. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair investigation.

A complainant will not be denied supportive measures simply because they choose not to file a formal complaint. The Title IX Coordinator will also explain to parties and witnesses that retaliation for reporting alleged violations of the policy, or participating in an investigation of any alleged violation, is strictly prohibited and that any retaliation should be immediately reported and will be promptly addressed.

The Title IX Coordinator accepts anonymous and third-party reports of conduct alleged to violate this policy and will follow up on such reports.

E. INDEPENDENCE AND CONFLICT OF INTEREST

Oakwood University's Title IX Coordinator and the members of the Title IX Team act with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against complainants and/or respondent, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University President. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Report of misconduct committed by the Title IX Coordinator should be reported to the University President or designee. Reports of misconduct committed by any other Title IX Team member should be reported to the Title IX Coordinator.

F. SUPPORTIVE MEASURES

The university will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the university's education program or activity, including measures designed to protect the safety of all parties or the university's educational environment, and/or deter sexual harassment and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the university will inform the complainant, in writing, that they may file a formal complaint with the university either at that time or in the future, if they have not done so already.

The Title IX Coordinator works with the complainant to ensure that their wishes are considered with respect to the supportive measures that are planned and implemented.

The university will maintain the privacy of the supportive measures, if privacy does not impair the university's ability to provide the supportive measures. The university will act to ensure as minimal an academic or occupational impact on the parties as possible.

The University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers

- Student financial aid counseling
- Altering work arrangements for employees or student-employees
- Safety planning
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence.
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator.

Any violations of no contact orders will be referred to the appropriate student or employee conduct processes for enforcement.

G. EMERGENCY REMOVAL

The university can act to remove a student respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator. This meeting will be requested within twenty-four (24) hours following emergency removal request. This meeting is only to show cause why the action/removal should not be implemented or should be modified.

The meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate.

When this meeting is not requested in the time allocated, objections to the emergency removal will be deemed waived.

A complainant and their support personnel may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so.

This Section also applies to any restrictions that a coach or athletic director may place on a student-athlete arising from allegations related to Title IX.

A respondent may be accompanied by support personnel of their choice when meeting with the Title IX Coordinator. The respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

The university will implement the least restrictive emergency action possible considering the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to:

- Temporarily re-assigning an employee.
- Restricting a student's or employee's access to or use of facilities or equipment
- Allowing a student to withdraw or take incomplete grades without financial penalty.
- Authorizing an administrative leave
- Suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

As the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the respondent is an employee, existing provisions for interim action are applicable.

H. COMPLAINT PROCESSING TIME

All allegations are acted upon promptly by the university once it has received notice of a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the university will avoid all undue delays within its control.

Any time the general time frames for resolution outlined in university procedures will be delayed, the university will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed because of the delay.

I. PRIVACY

Every effort is made by the university to preserve the privacy of reports. The university will not share the identity of any individual who has made a report of complaint of harassment or retaliation; any complainant, and individual who has been reported to be the perpetrator of sexual harassment or retaliation, any respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA).

The university reserves the right to determine which university officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Information will be shared as necessary with investigators, hearing panel members/decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The university may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so. In the event the student is younger than 19 years of age, all parents will be notified with or without consulting the student.

J. JURISDICTION

Oakwood University reserves the right to adjudicate over various jurisdictions. Per this policy those jurisdictions apply to:

- The educational programs and activities of the university.
- The conduct that takes place on campus or on property owned or controlled by the university.
- University-sponsored events

The respondent must be a member of the university's community for its policies to apply. This policy can also be applicable to the effect of off-campus misconduct that effectively deprives someone of access to the university's educational program. The university may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial university interest.

Regardless of where the conduct occurred, the university will address notice/complaints to determine whether the conduct occurred in the context of its employment of educational program or activity and/or has continuing effects on campus or in an off campus sponsored program or activity. A substantial university interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- Any situation in which it is determined that the respondent poses an immediate threat to the physical health or safety of any student or other individual.
- Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder.
- Any situation that is detrimental to the educational interests or mission of the university.

If the respondent is unknown or is not a member of the university community, the Title IX Coordinator will assist the complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the respondent is not a member of the university's community, supportive measures, remedies, and resources may be accessible to the complainant by contacting the Title IX Coordinator.

In addition, the university may take other actions as appropriate to protect the complainant against third parties, such as barring individuals from university property and/or events.

All vendors serving the university through third-party contracts are subject to policies and procedures of their employers.

When the respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee complainant who experiences sexual harassment or retaliation in an externship, study abroad program, or other environment external to the university where sexual harassment policies and procedures of the facilitating or host organization may give recourse to the complainant.

K. TIME LIMITS ON REPORTING

There are no time limitations on providing notice/complaints to the Title IX Coordinator. However, if the respondent is no longer subject to the university's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measure and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the university will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

L. ONLINE SEXUAL HARASSMENT AND/OR RETALIATION

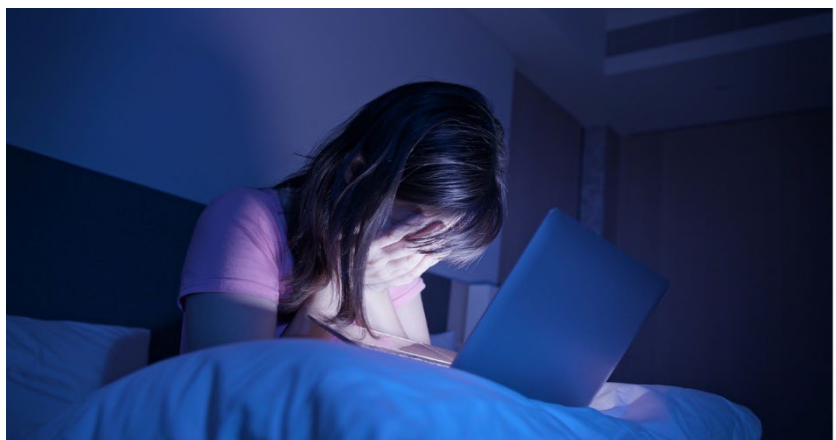
The university's policy is written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or influence the university's educational program and activities or use university networks, technology, or equipment.

Although the university may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the university, it will engage in a variety of means to address and mitigate the effects.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the university's control (e.g., not on university networks, websites, or between university email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for complainants will be provided, but protected speech cannot legally be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the college only when such speech is made in an employee's role with the university or impacts the employee's ability to perform their role.



PART II PROHIBITED CONDUCT

A. SEXUAL HARASSMENT

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Alabama regard sexual harassment as an unlawful discriminatory practice.

Oakwood University has adopted the following definition of sexual harassment to address the unique environment of an academic community and in compliance with Title IX regulations (34 CFR §106.30). Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual harassment, as an umbrella category, includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct based on sex or that is sexual that satisfies one or more of the following:

1. Quid Pro Quo:
 - a. An employee of the university,
 - b. Conditions the provision of an aid, benefit, or service of the college,
 - c. On an individual's participation in unwelcome sexual conduct.
2. Sexual Harassment
 - a. Unwelcome conduct, determined by a reasonable person, to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity.
3. Sexual Assault
 - a. Definition
 - i. Any sexual act directed against another person without the consent of the complainant includes instances in which the complainant is incapable of giving consent.
 - b. Sexual Assault Acts include:
 - i. Rape
 1. Penetration no matter how slight of the vagina or anus with any body part or object or oral penetration by a sex organ of another person without the consent of the complainant.
 - ii. Sodomy:
 1. Oral or anal sexual intercourse with another person forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - iii. Sexual Assault with an Object
 1. The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the

complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

iv. Fondling:

1. The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification forcibly and/or against the person's will (non-consensually), or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

v. Incest:

1. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Alabama Law.

vi. Statutory Rape

1. Non-forcible intercourse with a person who is under the statutory age of consent of 16 in Alabama.

4. Dating Violence

a. Definition

- i. Violence based on sex committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the complainant.

1. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of the following definition.

a. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

b. Dating violence does not include acts covered under the definition of domestic violence.

2. Violence based on sex committed by a current or former spouse or intimate partner of the complainant by a person with whom the complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner or by a person similarly situated to a spouse of the complainant under domestic or family violence laws of Alabama or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Alabama.

5. Stalking

a. Definition:

- i. Engaging in a course of conduct based on sex directed at a specific person that would cause a reasonable person to fear for the person's safety, or the safety of others: or suffer substantial emotional distress.

ii. For the purpose of this definition

1. Course of conduct- two more acts, including, but not limited to, acts in which the respondent 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.
2. Reasonable person- a reasonable person under similar circumstances and with similar identities to the complainant.
3. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

6. Sexual Exploitation

Occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:

1. Prostituting another person
2. Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity.
3. Non-consensual distribution of photos, other image, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information.
4. Going beyond the bounds of consent (such as letting your friends hide in the closet to watch you having consensual sex).
5. Engaging in non-consensual voyeurism.
6. Knowingly transmitting STI, such as HIV, to another without disclosing your STI status.
7. Exposing one's genitals in non-consensual circumstances or including another to expose his or her genitals.
8. Possessing, distributing, viewing, or forcing others to view illegal pornography.

B. TITLE IX REGULATORY DISMISSAL STANDARDS

Under 34 CFR §106.45 (B)(3) the university must dismiss the formal complaints if they do not meet the following standards:

- If the conduct does not constitute sexual harassment as defined above (34 CFR §106.30).
- If the university does not have control over the harasser.
- If the incident did not occur in a program of activity of the university.
- If the incident did not occur in the United States.
- If the complainant is not a member or seeking to become a member of the university.

Dismissal does not mean to disregard the complaint, rather the dismissal is to resolve the allegations under a separated policy not governed by the Title IX regulatory standards.

C. GRIEVANCE RESPONSE PROTOCOL

Allegations of sexual harassment that meet the five elements identified in the Title IX Regulatory Dismissal Standards portion of this policy will be addressed under the grievance resolution "Title IX Regulatory Grievance Standards."

Allegations of sexual harassment and/or sexual exploitation that must be dismissed for failure to meet the five requirements in "Title IX Regulatory Dismissal Standards" will be addressed under **Oakwood University Grievance Policy**.

PART III STANDARDS FOR ASSESSING CONDUCT

As used in the offenses above, the following definitions and understandings apply:

A. CONSENT

Knowing, voluntary, and clear permission by word or action to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the university to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to Bondage, discipline/dominance, submission/sadism, and masochism (BDSM) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the university’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

B. FORCE

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

C. COERCION

Coercion is an unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

D. INCAPACITATION

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a respondent violates this policy if they emerge in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the respondent neither knew nor should have known the complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.



PART IV UNIVERSITY STANDARDS

A. MANDATED REPORTING

All university employees (faculty, staff, administrators) are expected to report actual or suspected sexual harassment or retaliation to appropriate officials immediately.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements while consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected sexual harassment or retaliation. They may offer options and resources without any obligation to inform an outside agency or campus official unless a complainant has requested the information be shared.

If a complainant expects formal action in response to their allegations, reporting to any mandated reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the complainant), who will act when an incident is reported to them.

B. CONFIDENTIALITY OF COMPLAINTS AND REPORTS

Parties in these processes, including the complainant, the individual accused of a policy violation (“Respondent”), and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure.

In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality. The Title IX Coordinator will keep confidential the complaint, report, witness statements, and any other information provided by the complainant, respondent, or witnesses and will disclose this information only to the complainant, respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other university officials as necessary for coordinating interim measures or for health, welfare, and safety reasons, and to government agencies who review the university’s compliance with federal law. The investigation report will be disclosed only to the complainant, respondent, Title IX Coordinator, disciplinary authority as necessary, and university officials as necessary to prepare for subsequent proceedings (e.g., university president, provost, or university legal counsel). Information about complaints and reports, absent personally identifiable information, may be reported to university officials and external entities for statistical and analysis purposes pursuant to federal and state law and university policy.

C. FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with, or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under university policy.

D. AMNESTY FOR DRUG OR ALCOHOL POSSESSION AND CONSUMPTION VIOLATIONS

The university strongly encourages students to report instances of sex-based discrimination, sexual harassment, and sexual misconduct involving students. Therefore, students who report information about sex-based discrimination, sexual harassment or sexual misconduct involving students will not be disciplined by the university for any violation of the university's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.

E. FREE SPEECH AND ACADEMIC FREEDOM

This policy shall not be construed or applied to restrict academic freedom at the university, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant, or even hateful.

The university recognizes and protects full freedom of inquiry, teaching, research, discussion, study, publication, and for artists, the creation and exhibition of works or art, without hindrance, restriction, equivocation, or reprisal. This right extends to other facets of campus life to include the right of a faculty member or student to speak on general educational questions or about the university. In addressing all complaints and reports under this policy, the university will take all permissible actions to ensure the safety of students and employees while complying with free speech requirements for students and employees. While the university will protect students' and employees' rights against sex discrimination under this policy, this policy does not apply to curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

F. EXTERNAL COMPLAINTS

If a person filed a complaint with the Title IX Coordinator and believes the university's response was inadequate, or otherwise believes the university has discriminated on the basis of sex, including sexual harassment, or retaliation, the individual may file a complaint with the:

U.S. Department of Education
Office for Civil Rights (OCR)
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
FAX: (202) 453-6012
TDD#: (800) 877-8339
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Atlanta Office
Office for Civil Rights
U.S. Department of Education
61 Forsyth St. S.W., Suite 19T10
Atlanta, GA 30303-8927
Telephone: 404-974-9406
FAX: 404-974-9471; TDD: 800-877-8339
Email: OCR.Atlanta@ed.gov

G. RESOURCES

The college's Safety and Security Annual Report of on-campus crime statistics includes forcible and non-forcible sex offenses, in lieu of the single category of rape used on previous reports, as well as statistics on dating violence, domestic violence, and stalking, in compliance with the Campus Security Act.

Copies of the Safety and Security Annual Report (required by the Student Right-to-Know and Campus Security Act of 1990) which details on-campus crime statistics for the three previous calendar years may be obtained at the following locations:

- Human Resources Department, Blake Center (256)-726-8218
- Office of Student Life & Mission Division, Blake Center (256)-726-7400
- Campus Security Office (256) 726-7371
- A Touch of Peace Counseling Services, 256-334-9572; www.ataouchofpeace.org - This service is free of charge to all actively enrolled students at the university.
- Suicide & Crisis Hotlines – 988 - The 988 Lifeline provides 24/7, free and confidential support for people in distress, prevention and crisis resources for you or your loved ones, and best practices for professionals in the United States.

H. CRIMINAL REPORTING

Please remember that if someone is in immediate danger or needs immediate medical attention, the first place to report is 911. Following suit, Oakwood University Police Department (OUPD) needs to be made aware of the emergency. This report can be made by dialing 7911 from any campus phone or 256-726-7911. Some forms of discrimination and harassment may also be crimes. For example, sexual assault, stalking, and rape crimes. Criminal reports should be made to law enforcement, even if it is uncertain whether the particular conduct is a crime. Calling local law enforcement can help you:

- Obtain emergency and nonemergency medical care.
- Get immediate law enforcement response for your protection.
- Understand how to provide assistance in a situation that may escalate to more severe criminal behavior.
- Arrange a meeting with victim advocate services.
- Find counseling and support.
- Initiate a criminal investigation.
- Answer questions about the criminal process.

In order to preserve physical evidence of a sexual offense, victims of sexual assault are urged to not bath, shower, use any feminine douche or change clothing. Such victims should go IMMEDIATELY to the medical facility of their choice to receive medical treatment if needed and to ensure that the appropriate examinations are conducted to collect the necessary physical evidence of the assault.

PART V - GRIEVANCE RESOLUTION PROCESS

SEX/GENDER HARASSMENT, DISCRIMINATION, AND SEXUAL MISCONDUCT

A. TITLE IX REGULATORY GRIEVANCE PROCESS STANDARDS

1. NOTICE/FORMAL COMPLAINT

Upon receipt of a notice of complaint to the Title IX Coordinator of an alleged violation of the policy, the Title IX Coordinator conducts an initial assessment to first determine if the allegation falls under the Title IX Regulatory Process or if it should be referred to the Oakwood University Judicial Process. Following the assessment, the Title IX Coordinator will determine the next steps the university needs to take.

The Title IX Coordinator will initiate at least one of three responses:

- Offering supportive measures because the complainant does not want to file a formal complaint.
- An informal resolution (upon submission of a formal complaint) including but not limited to mediation.
- A formal grievance process includes an investigation and a hearing (upon submission of a formal complaint).

The university uses formal grievance process to determine whether or not the policy has been violated. If so, the university will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment or retaliation, their potential recurrence, or their effects.

2. INITIAL ASSESSMENT

- a. Following receipt of a formal complaint of an alleged violation of this policy, the Title IX Coordinator or designee engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:
 - i. The title IX Coordinator reaches out to the complainant to offer supportive measures.
 - ii. The Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
 - iii. If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
 - iv. The Title IX Coordinator works with the complainant to determine whether the complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - v. If a formal complaint is made (requiring the signature of the complainant), the Title IX Coordinator assesses its sufficiency and works with the complainant to make sure it is correctly completed.
 - vi. If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution and may seek to determine if the respondent is also willing to engage in informal resolution.

- vii. If a formal grievance process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX or this policy.
- viii. If it does, the Title IX Coordinator will initiate the formal investigation and grievance process.
- ix. Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints trained individuals to conduct the investigation, usually within two business days of determining that an investigation should proceed.

3. DISCRETIONARY DISMISSAL

- a. The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:
 - i. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein.
 - ii. The Respondent is no longer enrolled in or employed by the university.
 - iii. Specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- b. Upon any dismissal, the university will promptly send written notice to the dismissal and the rationale for doing so simultaneously to the parties.
- c. The dismissal decision is appealable by any party.

4. COUNTERCLAIMS

- a. The university is obligated to ensure that the grievance process is not abused for retaliatory purposes. The university permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.
- b. Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.
- c. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

B. RESOLUTION PROCESSES

1. INFORMAL RESOLUTION

- a. Informal resolution can include three different approaches:
 - i. When the Title IX Coordinator can resolve the matter informally by providing supportive reassures (only) to remedy the situation.
 - ii. When the parties agree to resolve the matter through an alternate resolution mechanism, usually before a formal investigation takes place.
 - iii. When the respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process.

- b. To initiate informal resolution, a complainant needs to submit a formal complaint, as defined above. A respondent who wishes to initiate informal resolution should contact the Title IX Coordinator.
- c. It is not necessary to pursue informal resolution first in order to pursue a formal grievance process, and any party participating in informal resolution can stop the process at any time and begin or resume the formal grievance process.
- d. Prior to implementing informal resolution, the university will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the university.
- e. The university will obtain voluntary, written confirmation that all parties wish to resolve the matter through informal resolution before processing and will be maintained or shared by the university.

2. FORMAL GRIEVANCE RESOLUTION PROCESS

- a. The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the respondent upon commencement of the formal grievance process. This facilitates the respondent’s ability to prepare for the interview and to identify and choose an advisor to accompany them. The NOIA is also copied to the complainant, who is to be given advance notice of when the NOIA will be delivered to the respondent.
- b. The NOIA will include:
 - i. A meaningful summary of all of the allegations.
 - ii. The identity of the involved parties (if known)
 - iii. The precise misconduct being alleged.
 - iv. The date and location of the alleged incident(s) (if known)
 - v. The specific policies implicated.
 - vi. A description of the applicable procedures
 - vii. A statement of the potential sanction/responsive actions that could result.
 - viii. A statement that the university presumes the respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination.
 - ix. A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period.
 - x. A statement about the university’s policy on retaliation.
 - xi. Information about the privacy of the process
 - xii. Information on the right of each party to have an advisor of their choosing.
 - xiii. A statement informing the parties that the university policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process.
 - xiv. Detail on how the party may request disability accommodations during the interview process.
 - xv. An instruction to preserve any evidence that is directly related to the allegations.
- c. Notice will be made in writing and may be delivered by one or more of the following methods:
 - i. In person
 - ii. Mailed to the local or permanent address of the parties as indicated in official university records or emailed to the parties’ university-issued email or designated accounts.
- d. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

3. RIGHT TO AN ADVISOR

- a. The parties may each have an advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their advisor as long as the advisor is eligible and available.
- b. The advisor may be a friend, mentor, family member, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose an advisor from inside or outside the university community. The Title IX Coordinator will also assign an advisor for any party if the party requests.
- c. Choosing an advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an advisor who is also a witness can anticipate the issues of potential bias will be explored by the hearing decision-maker(s).
- d. Parties may request to have more than one advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

4. ADVISOR'S ROLE IN MEETINGS AND HEARING

- a. The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.
- b. The university cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not or cannot afford an attorney, the university is not obligated to provide an attorney.
- c. Under U.S. Department of Education regulations under Title IX, cross-examination is required during the hearing, but must be conducted by the parties' advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an advisor for a hearing, the university will appoint an advisor for the limited purpose of conducting any questioning of the other party and witnesses.
- d. A party may reject this appointment and choose their own advisor, but they may not proceed without an advisor. If the party's advisor does not conduct questioning, the university will appoint an advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself.
- e. A party may elect to change advisors during the process and is not obligated to use the same advisor throughout. The parties are expected to inform the investigator(s) of the identity of their advisor at least two (2) business days before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired).
- f. The parties are expected to provide timely notice to the Title IX Coordinator if they change advisors at any time. It is assumed that if a party changes advisors, consent to share information with the previous advisor is terminated, and a release for the new advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing advisor at least two (2) business days before the hearing.
- g. All advisors are subject to the same university policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. The parties are expected to ask and respond to questions on their behalf throughout the investigation phase of the resolution process. Although the advisor generally may not speak on behalf of their advisee, the advisor may consult with their advisee, either privately as needed, or by conferring or passing notes

during any resolution process meeting or interview. For longer or more involved discussions, the parties and their advisors should ask for breaks to allow for private consultation.

- h. Any advisor who oversteps their role as defined by this policy will be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the advisor's non-compliance and future role.

5. INVESTIGATION PROCESS

- a. All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.
- b. All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence of the record.

The investigator(s) typically takes(s) the following steps, if not already completed (not necessarily in this order):

- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- Meet with the complainant to finalize their interview/statement, if necessary.
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Allow each party the opportunity to suggest witnesses and questions they wish the investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide regular status updates to the parties throughout the investigation.
- Provide each interviewed party and witness an opportunity to review and verify the investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
- The investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Prior to the conclusion of the investigation, provide the parties and their respective advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and report misconduct, including the evidence upon which the university does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., complainant, respondent, complainant's advisor, respondent's advisor).
- The investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.
- Upon conclusion of the 10-day period, the investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any

necessary revisions, and finalize the report. The investigator(s) should document all rationales for any changes made after the review and comment period.

- The investigator shares the report with the Title IX Coordinator for feedback.
- The investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their advisors through secured electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices will include relevant physical or documentary evidence.

6. ROLE OF WITNESSES IN THE INVESTIGATION

- a. Witnesses may be students, employees or others identified by the investigator or by the parties. Student witnesses are strongly encouraged to participate in good faith with the investigation process. Witnesses who are employed by the university are expected to cooperate with and participate in the university's investigation and resolution process. Failure of employee witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.
- b. Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Zoom will be the main technology to be used for interviews if the investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The university will take appropriate steps to reasonably endure the security/privacy of remote interviews.

7. RESOLUTION TIMELINE

- a. The university will make a good faith effort to complete the resolution process within a 60-90 business daytime period. Including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

8. NOTICE OF HEARING

- a. Notice will be made in writing and may be delivered by one or more of the following methods:
 - In person
 - Emailed to the parties' university-issued email.
- b. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
- c. No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.
- d. The hearing notice will contain:
 - i. A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanction/responsive actions that could result.
 - ii. The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.

- iii. Any technology that will be used to facilitate the hearing.
- iv. Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be made with the Title IX Coordinator at least five (5) business days prior to the hearing.
- v. A list of all those who will attend the hearing, along with an invitation to object to any decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.
- vi. Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- vii. If a party or witness does not appear at the hearing and cannot be subject to cross-examination, the Hearing Panel will use information provided as a part of the investigation in making a decision. A party or witness will not be penalized in the decision process for not attending a hearing. However, there is a significant benefit to attending the hearing and addressing questions. Respondents who do not attend will be relinquishing due process opportunities inherent in addressing questions during cross-examination and direct examination. For compelling reasons, the chair may reschedule the hearing.
- viii. Notification that the parties may have the assistance of an advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an advisor, and the university will appoint one. Each party must have an advisor present. There are no exceptions.
- ix. A copy of all the materials provided to the decision-maker(s) about the matter, unless they have been provided already.
- x. An invitation to each party to submit to the chair an impact statement pre-hearing that the decision-maker will review during any sanction determination.
- xi. An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) days prior to the hearing.
- xii. Whether parties can or cannot bring mobile phones/devices into the hearing.
- e. Hearings for possible violations that occur near or after the end of the academic term (assuming the respondent is still subject to this policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the university and remain within the 60-90 business day goal for resolution.
- f. In these cases, if the respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including an appeal). A student facing charges under this policy is not in good standing to graduate.

9. DECISION MAKER/HEARING PANEL

- a. The university will designate a single decision-maker or a three-member panel at the discretion of the Title IX Coordinator. The single decision-maker will also chair the hearing. With a panel, one of the three members will be appointed as chair by the Title IX Coordinator.
- b. The decision-maker(s) will not have had any previous involvement with the investigation. Those who have served as investigators will be witnesses in the hearing and, therefore, may not serve as decision-makers. Those who are serving as advisors for any party may not serve as decision-makers in that matter.

- c. The Title IX Coordinator may not serve as a decision-maker or chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the chair or designee.

10. HEARING PROCEDURES

- a. At the hearing the decision-maker(s) has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual harassment and/or retaliation, even though those collateral allegations may not specifically fall within the policy.
- b. Participants at the hearing will include:
 - i. The chair
 - ii. Any additional panelists
 - iii. The investigator(s) who conducted the investigation.
 - iv. The parties (or three (3) organizational representatives when an organization is the respondent)
 - v. Advisors to the parties
 - vi. Any called witnesses.
 - vii. Anyone providing authorized accommodations or assistive services.
- c. The chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.
- d. The chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the decision-maker(s) and the parties and will then be excused.

11. RECORDING

- a. Hearings (but not deliberations) are recorded by the university for the purpose of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.
- b. The decision-maker(s), the parties, their advisors, and appropriate administrators of the university will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without the permission of the Title IX Coordinator.

12. DELIBERATION, DECISION-MAKING, AND STANDARD OF PROOF

- a. The decision-maker(s) will deliberate in a closed session to determine whether the respondent is responsible or not responsible for the policy violation(s) in question. If a panel is used, a simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used.
- b. When there is a finding of responsibility for one or more of the allegations, the decision-maker(s) may then consider the previously submitted party impact statements in determining appropriate sanctions(s).

- c. The chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The decision-maker(s) may – at their discretion – consider the statements, but they are not binding.
- d. The decision-maker(s) will review the statements and any pertinent conduct history provided by the appropriate administrator and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.
- e. The chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions or recommendations.
- f. This report must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

13. NOTICE OF THE OUTCOME

- a. Using the deliberation statement, the Title IX Coordinator will work with the chair to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their advisors within seven (7) business days of receiving the decision-maker(s)' deliberation statement.
- b. The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and will be delivered through university-issued email.
- c. The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the university from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearing held.
- d. The Notice of Outcome will specify the finding on each allegation policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy of the facts at issue; a statement of, and rationale for, the results of each allegation to the extent the university is permitted to share such information under state or federal law; any sanctions issued which the university is permitted to share according to state and federal law; and any remedies provided to the complainant designed to ensure access to the university educational or employment program or activity, to the extent the university is permitted to share such information under state or federal law (this detail is not typically shared with the respondent unless the remedy directly relates to the respondent).
- e. The Notice of Outcome will also include information on when the results are considered by the university to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

14. SANCTIONS

- a. Factors considered with determining a sanction/responsive action may include, but are not limited to:
 - i. The nature, severity of, and circumstances surrounding the violation(s).
 - ii. The respondent's disciplinary history.
 - iii. Previous allegations or allegations involving similar conduct.
 - iv. The need for sanctions/responsive actions to bring an end to the sexual harassment and/or retaliation.

- v. The need for sanctions/responsive action to prevent the future recurrence of sexual harassment and/or retaliation.
 - vi. The need to remedy the effects of the sexual harassment and/or retaliation on the complainant and the community.
 - vii. The impact on the parties.
 - viii. Any other information deemed relevant by the decision-maker(s).
- b. The sanctions will be implemented as soon as it is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.



PART VI - TITLE IX UNIVERSITY GRIEVANCE STANDARDS

IF A CASE IS DETERMINED TO BE DISMISSED BY TITLE IX POLICY UNDER THE REGULATORY STANDARDS BUT DEEMED A VIOLATION OF THE STUDENT CODE OF CONDUCT WILL BE ADDRESSED BY THE JUDICIAL DEPARTMENT OF OAKWOOD UNIVERSITY AND ADJUDICATED AS SUCH.

A. APPEALS

1. Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Vice President for the Division of Student Life and Mission and the University Provost within three (3) days of the delivery of the Notice of Outcome. The Vice President for the Division of Student Life and Mission, along with the University Provost will review all information assigned to the specific case.
2. This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.
3. Grounds for Appeal
 - a. Appeals are limited to the following grounds:
 - i. Procedural irregularity that affects the outcome of the matter.
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
 - iii. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or respondent that affected the outcome of the matter.
 - b. If any of the grounds in the request for appeal meet the grounds in this policy, that request will be denied by Appeals committee and the parties and their advisors will be notified in writing of the denial and the rationale.
 - c. If any of the grounds in the request for appeal meet the ground in this policy, then the appeals committee will notify the other party(ies) and their advisors, the Title IX Coordinator, and when appropriate, the investigators and/or the original decision-maker(s).
 - d. The other party(ies) and their advisors, the Title IX Coordinator, and, when appropriate, the investigators and/or the original decision-maker(s) will be emailed and copy of the request with the approved grounds and then be given seven (7) business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Vice President for the Division of Student Life and Mission to all parties for review and comments.
 - e. The non-appealing party (if any) may also choose to raise new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this policy by the appeal chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the investigator(s) and/or original decision-maker(s), as necessary, who will submit their responses in seven (7) business days, which will be circulated for review and comment by all parties.
 - f. Neither party may submit any new requests for appeal after this time period. The appeal chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the appeal committee, or and the chair/panel will render a decision in no more than seven (7) business days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence standard.

- g. A notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the university is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the university is permitted to share under state or federal law.
- h. Notification will be made in writing and will be delivered via email to the parties' university-issued email address. Once emailed notice will be presumptively delivered.
- i. Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.
- j. Appeal Considerations
 - i. Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
 - ii. Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
 - iii. An appeal granted based on new evidence should normally be remanded to the original investigator(s) and/or decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
 - iv. Once an appeal is decided, the outcome is final, further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
 - v. In rare cases where a procedural error cannot be cured by the original decision-maker(s) (as in case of bias), the appeal may order a new hearing with a new decision-maker(s).
 - vi. The results of a remand to a decision-maker(s) cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal groups.
 - vii. In cases in which the appeal results in reinstatement to the university or resumption of privileged, all reasonable attempts will be made to restore the respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

B. FAILURE TO COMPLY WITH SANCTIONS

- a. All respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final decision-maker(s) (including the appeal chair/panel)
- b. Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the university and may be noted on a student's official transcript.
- c. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator

C. RECORDKEEPING

- a. The university will maintain for a period of at least seven years records of:
 - i. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation.

- ii. Any disciplinary sanction imposed on the respondent.
- iii. Any remedies provided to the complainant are designed to restore or preserve equal access to the university's educational program or activity.
- iv. Any appeal and the result therefrom.
- v. Any informal resolution and the result therefrom.
- vi. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The university will make these training materials publicly available on the university website.
- vii. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - 1. The basis for all conclusions is that the response was not deliberately indifferent.
 - 2. Any measure designed to restore or preserve equal access to the university's educational program or activity.
 - 3. If no supportive measures were provided to the complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- b. The university will also maintain any and all records in accordance with state and federal laws.

D. REVISION OF POLICY AND GRIEVANCE PROCESS

- a. This policy and procedure supersede any previous policy(ies) addressing harassment, sexual misconduct, and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator.
- b. The university reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.
- c. During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.
- d. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedures. If government laws or regulations change - or court decisions alter - the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.
- e. This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.
- f. This policy and procedures are effective (date of approval by the Board).

E. NOTE IMPORTANT CONTACTS

- a. Oakwood University Police Department (OUPD) (256)-726-7371
OUPD is available by phone 24 hours a day, 7 days a week. Students are also encouraged to dial 911 in case 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.
- b. Oakwood University's Title IX Coordinator (256)-726-8339 or emailing tixc@oakwood.edu.

- c. Vice President for the Division of Student Life and Mission (256)-726-7396
- d. Residence Halls
 - i. Carter Hall – (256)-726-7094
 - ii. Holland Hall- (256)-726-7304
 - iii. Edwards Hall- (256)-726-7180
 - iv. Peterson Hall– (256)-726-7182
 - v. Wade Hall – (256)-726-8207
- e. Department of Human Resources (256)-726-8218
- f. Crisis Services of North Alabama (256)-716-1000
- g. Suicide and Crisis Hotline (988)





OAKWOOD UNIVERSITY

7000 Adventist Blvd NW,
Huntsville, Al 35896
www.oakwood.edu
256.726.7000

