

# **OBERLIN COLLEGE SEXUAL MISCONDUCT POLICY**

**Approved on October 16, 2019**

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## EMERGENCY INFORMATION AND RESOURCE GUIDE

Any student, employee, or member of the Oberlin College community who has experienced sexual misconduct or violence is encouraged to immediately notify law enforcement and/or seek immediate medical assistance. Oberlin College Safety and Security will provide transportation upon request. You are also encouraged to report the misconduct or violence promptly to the College by notifying any of the on-campus reporting options listed here.

### Emergency Assistance

Emergency Response	Health and Safety	Counseling/Crisis Response
<b>911 (Emergency Services)</b> <b>Oberlin College Safety and Security</b> (440) 775-8911 (24 hours)	<b>The Nord Center Sexual Assault Care Unit</b> (800) 888-6161 (24 hour hotline)	<b>Lorain County Rape Crisis</b> (800) 888-6161 (24 hours) <b>Lorain County Mental Health Crisis Hotline</b> (800) 888-6161 (24 hours)

#### Confidential Resources and Reporting Options:

All individuals are encouraged to make a prompt report to law enforcement and to the College. An individual may seek confidential support as designated below. Confidential resources will not share information with the College nor will speaking with a confidential resource trigger action by the College under most circumstances. We encourage all individuals to make a prompt report to the College using the reporting options below, but we recognize that individuals may choose to make a report of sexual misconduct to any College employee. With the exception of confidential resources, all Responsible Employees, including student employees or volunteers who have a responsibility for student welfare, are trained and required to share the report with a central Title IX Team to ensure a prompt and equitable review, investigation and resolution.

## Confidential Resources and Support

Students	Employees
<p><b>Oberlin College Counseling Center</b> (440) 775-8470</p> <p><b>Office of Religious and Spiritual Life</b> (440) 775-5191</p> <p><b>Confidential Student Advocate</b> (440) 204-4359</p> <p><b>Lorain County Rape Crisis</b> (800) 888-6161 (24 hour hotline)</p>	<p><b>Lorain County Rape Crisis</b> (800) 888-6161 (24 hour hotline)</p> <p><b>Employee Assistance Program</b> (800) 989 - 3277</p>

## Reporting Options

On Campus	Off Campus
<p><b>Safety and Security</b>   (440) 775-8911 (24 hours)</p> <p><b>Dean of Students</b>   (440) 775-8462</p> <p><b>Title IX Coordinator</b>   (440) 775- 8555</p> <p><b>Human Resources</b>   (440) 775-8430</p>	<p><b>Oberlin Police Department</b>   (440) 774-1061</p> <p><b>Mercy Allen Hospital</b>   (440) 775-1211</p> <p><b>Lorain County Prosecutor</b>   (440) 329-5389</p>

## 1. INTRODUCTION

### Executive Summary

#### Purpose

Oberlin College will not tolerate any type of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, which are referred to in this policy as sexual misconduct. The College is committed to taking all appropriate steps to eliminate these forms of sexual misconduct,

prevent their recurrence, and address their effects. This policy outlines the College's institutional values, prohibited conduct, resources, reporting options, and processes for the review, investigation and resolution of reports of sexual misconduct.

### **Scope of Policy**

This policy applies to all members of the Oberlin College community, including students, employees, and visitors. This policy applies to both on-campus and off-campus conduct. In particular, off-campus conduct is subject to this policy if the conduct occurred in the context of an education program or activity of the College or had continuing adverse effects on campus or in an off-campus education program or activity.

### **Notice of Non-Discrimination**

Oberlin College does not discriminate on the basis of race, color, sex, marital status, religion, creed, national origin, disability, age, genetic information, military or veteran status, sexual orientation, family relationship to an employee of Oberlin College, and gender identity and expression, or any other protected class.

### **Title IX Coordinator**

Rebecca Mosely, the Title IX Coordinator, oversees the College's central review, investigation and resolution of reports of sexual harassment, misconduct, stalking and intimate partner violence under the College's report processes and coordinates the College's compliance with Title IX.

### **Title IX Review**

Oberlin College's Title IX review consists of an inter-department team which includes, as appropriate, the Title IX Coordinator, the Deputy Title IX Coordinator(s), a designee from the Dean of Students, a designee from the Dean of the College or the Dean of the Conservatory, the Manager of Employee and Labor Relations, and the Director of Safety and Security and/or designee. This team, which is overseen by the Title IX Coordinator, is responsible for the prompt and equitable review and resolution of any reports under the Student, Staff, or Faculty Report Processes. The members of the team will vary based upon the roles of the parties involved. In all cases, the Title IX Team will be limited to a small number of individuals who need to be informed in order to provide effective and equitable review and timely resolution of reports while protecting the privacy of parties as fully as possible.

## **Reporting**

Oberlin College will take immediate action in all allegations of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, to protect the safety of the college community and individuals involved. The College encourages anyone who has experienced, witnessed or has information pertaining to a potential violation of the Sexual Misconduct Policy to take an active role in reporting this behavior.

Students and employees are encouraged to report information regarding an incident of sexual misconduct to designated employees of the College. These reporting options are: Safety and Security, the Title IX Coordinator, the Deputy Title IX Coordinator(s), the Dean of Students Office, or the Manager of Employee and Labor Relations. The College recognizes, however, that an individual may choose to report to *any* College employee, even those not specifically designated as a reporting option. Consistent with this policy, any Responsible Employee who receives such a report is required to share the report with a central review team to ensure consistent application of College policy for all individuals.

Oberlin College encourages all college community members to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Community members who exercise this obligation will be supported by the College and protected from retaliation.

## **Statement Against Retaliation**

It is a violation of Oberlin College policy to retaliate in any way against a student or employee because they have brought forward or been the subject of allegations of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, or participated in the College's resolution of the report. The College will take immediate and responsive action to any report of retaliation.

## **Privacy Statement**

In any report, investigation, or resolution of an allegation of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, every effort will be made to protect the privacy and confidentiality interests of the individuals involved in a manner consistent with the need for a thorough review of the allegation and the protection of the parties involved and the broader campus community.

## **Confidential Resources**

Oberlin College realizes that not every individual is prepared to make a formal report for resolution. There are several confidential resources available for both students and employees who are seeking assistance but do not wish to make a report to the College or law enforcement.

## **Resources**

Oberlin College is committed to providing on campus resources and support to Reporting Parties and Responding Parties, whether or not an individual wishes to pursue formal disciplinary action. There are also many off-campus resources available to individuals who experience sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence.

## **Interim Measures**

Upon receipt of a report, the College will take interim measures to protect the parties involved. These may include no-contact directives, changes in class or work schedules, changes in living arrangements, interim suspension, College-imposed leave, or any other measures that the College deems appropriate in consultation with the parties.

## **Formal Resolution Procedures**

- Reports against a student will be resolved by the Student Formal Resolution Process.
- Reports against a non-faculty employee will be resolved by the Staff Formal Resolution Process.
- Reports against a faculty member will be resolved by the Faculty Formal Resolution Process.

## **Appendices**

The Appendices contain a chart which provides a visual overview of the process of resolution of reports of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, and a list of key implementers named in this policy along with contact information.

## **Statement of Purpose**

Oberlin College students, employees, alumni, guests, and visitors have the right to be free from sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, on campus and in their interactions with each other. Sexual misconduct is the term used in this policy for sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, as well as other forms of prohibited conduct as defined in this policy.

Because all members of the Oberlin College community have a right to and a stake in creating a campus free of violence, harassment, and discrimination, this policy applies to all students, employees, and visitors to campus.

## **Introduction: Ensuring an Equitable Campus Free of Violence, Harassment, and Discrimination**

Oberlin College seeks to ensure an equitable and inclusive campus free of violence, harassment, and discrimination. Therefore, Oberlin College will not tolerate sexual and/or gender-based harassment, discrimination, and violence, including sexual violence, stalking, and intimate partner violence, in any College program or activity, including the academic, employment or residential setting. When used in this policy, sexual misconduct includes sexual violence, intimate partner violence, and stalking. This prohibition also includes all forms of discrimination or harassment based on sex, marital status, sexual orientation, and/or gender identity and expression. Such conduct violates community expectations and is prohibited by state and federal law. The Sexual Misconduct Policy affirms the Oberlin community's commitment to these principles and describes the process the College uses to resolve reports of sexual misconduct.

Reports of sexual misconduct will be investigated and resolved in a timely and equitable fashion. Because sexual misconduct has such a grave impact on the kind of community required to ensure the fullest educational and occupational opportunities, parties who are found responsible for violating the Sexual Misconduct Policy will be subject to appropriate sanctions. These sanctions are intended to ensure that such forms of misconduct do not continue and may include suspension, termination, and expulsion.

Oberlin College will provide appropriate support to all college community members who are involved in the reporting or investigation of sexual misconduct in order to ensure access, provide equitable resolution, and to stop and address the effects of discrimination. In particular, the College is committed to ensuring that anyone who experiences sexual misconduct receives appropriate support, reporting options, and resolution to reports to ensure access to the full range of educational and occupational opportunities. Appropriate interim remedies and support are available even if an individual chooses not to pursue any action under this Policy.

Oberlin College views this policy as a primary resource in preventing and responding to sexual misconduct. Therefore, retaliation against anyone who makes a report, cooperates with an investigation, or participates in a grievance procedure is a violation of College policy. Retaliation should be reported promptly to the Title IX Coordinator for investigation pursuant to this policy and may result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of sexual misconduct, discrimination, and/or harassment.

All members of the campus community are expected to play a role in preventing and responding to sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. Reporting any knowledge of sexual misconduct is especially important, since it allows the College to connect a Reporting Party to resources and support and to foster individual and campus safety. Members of the community have different expectations in regard to reporting, described as follows:

- *Responsible Employees* who become aware of potential misconduct are **required** to report it promptly to the Title IX Coordinator. Such reporting ensures timely support for all parties and enables an effective and consistent institutional response. Responsible Employees include all employees who serve in supervisory positions, whether paid or unpaid. A supervisor is anyone who has the authority to hire, promote, discipline, evaluate, grade or direct faculty, staff or students. This includes everyone who manages or supervises others, including (but not limited to) faculty department program chairs, teaching faculty, resident advisors, coaches and anyone who leads, administers, advises or directs University programs. It also includes student employees or student volunteers who have the responsibility for the welfare of other students.

- *All other employees* are **expected** to report any information about potential misconduct to the Title IX Coordinator, in recognition of the community understanding that centralized reporting is an important tool to address, end, and prevent sexual misconduct and other forms of gender- and/or sexual-related discrimination and harassment.
- *Students* who are not Responsible Employees are **strongly encouraged** to report any information about sexual misconduct, including reports or partial reports, to the Title IX Coordinator.
- *Confidential professional resources*, including professional and pastoral counselors, are **not permitted** to report any information about sexual misconduct without the consent of the patient/client, unless the information involves suspected abuse of a minor or there is an imminent risk of harm to self or others.
- A *Confidential student advocate* is available to support students and only reports general information about incidents of sexual misconduct (what types of misconduct, when and where the incident took place) in a way that does not identify the student, unless the student consents to report identifying information.

Required reporting is not meant to undermine a Reporting Party's agency to choose how to respond to experiences of sexual misconduct, but rather to ensure that all community members are fully empowered and informed about options for support and safety and information is shared with the College so that it may take immediate corrective action to eliminate, prevent and address a hostile environment.

Any member of the community who intervenes to prevent sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence (when safe to do so), seeks the support of peers or colleagues, or reports such conduct to the Title IX Coordinator or another Responsible Employee will be supported by the College and protected from retaliation.

This policy uses they, them, and theirs as third person singular gender-neutral pronouns, in recognition that individuals accessing this policy may have a range of gender identities and forms of self-identification.

## **Academic, Intellectual, and Expressive Freedom**

This policy recognizes the central importance of academic freedom to the campus community and embraces respect for intellectual and expressive freedom. This policy upholds these values by prohibiting sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. As the American Association of University Professors notes, “the freedom to teach and to learn is inseparable from the maintenance of a safe and hospitable learning environment” (AAUP, “Campus Sexual Assault Procedures,” 2012). Further, this policy reflects guidance from the Office for Civil Rights which states that “the laws and regulations it enforces protect students from prohibited discrimination and do not restrict the exercise of any expressive activities or speech protected under the U.S. Constitution” (OCR Title IX and Sexual Violence FAQ L-1, 2014). This policy recognizes that effective learning may include engagement with difficult, offensive, or historically charged materials, and that such pedagogical experiences do not constitute violations of this policy, which is designed to stop, address, and prevent the recurrence of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence.

## **Scope of the Policy**

The policy applies to all Oberlin College community members, including students, faculty, administrators, staff, volunteers, vendors, independent contractors, visitors, alumni and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the College or on College property. This policy applies to sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, both on and off campus. In particular, off-campus conduct is subject to this policy if the conduct occurred in the context of an education program or activity of the College or had continuing adverse effects on campus or in an off-campus education program or activity.

## **Statement of Non-Discrimination**

Oberlin College is committed to creating an institutional environment free from discrimination and harassment for students and employees. Thus, discrimination and

harassment based on the following categories are prohibited: race, color, sex, marital status, religion, creed, national origin, disability, age, genetic information, military or veteran status, sexual orientation, family relationship to an employee of Oberlin College, and gender identity and expression. In addition, should any applicable law be enacted in the future prohibiting discrimination and/or harassment based on a category not listed above, or should there be other changes in the applicable law governing discrimination and/or harassment, this Policy will be deemed amended to the extent necessary to reflect such changes. In affirming the prohibition against discrimination and harassment on these bases, Oberlin College also affirms its compliance with applicable laws.

The Sexual Misconduct Policy covers conduct prohibited under Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin, and Title IX, the 1972 amendment to the Higher Education Act of 1965 which prohibits discrimination based on sex in higher education. This policy also reflects the provisions of the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), a federal statute enacted in 1990, and the Campus Sexual Violence Elimination (SaVE) Act, which was passed as part of the reauthorization of the Violence Against Women Act (2013). Oberlin policy also aligns with Ohio law, including Ohio Revised Code Chapter 2907: Sex Offenses and Chapter 4112, which prohibits discrimination in various contexts based on race, color, religion, sex, military status, national origin, disability, age, or ancestry. Section 1185.02 of the Codified Ordinances of Oberlin prohibits discrimination in housing based on race, color, religion, sex, sexual orientation, ancestry, handicap, familial status, or national origin of any prospective owner, occupant or user of the housing.

The Oberlin College non-discrimination statement includes all forms of gender- and/or sex-based discrimination and affirms that the College does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. The Sexual Misconduct Policy implements the College non-discrimination statement by prohibiting sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. Oberlin College's Sexual Misconduct Policy, in keeping with this federal law, reflects the understanding that sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, can and do affect individuals of all genders. These protections thus apply to all Oberlin community members and visitors of any gender, gender identity, gender expression or sexual

orientation. Oberlin College will respond promptly and equitably to reports of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, in order to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

Other forms of discrimination and harassment prohibited by the College are addressed under the [Oberlin College Policy on Discrimination and Harassment](#).

## **Title IX Compliance: Title IX Coordinator and Team**

Rebecca Mosely serves as the college's Title IX coordinator and can be reached at:

(440) 775-8555  
[rebecca.mosely@oberlin.edu](mailto:rebecca.mosely@oberlin.edu)  
Carnegie 204

The Title IX Coordinator oversees the College's central review process for receiving, investigating, and resolving reports of sexual misconduct to ensure that the College has taken prompt and equitable action to eliminate any hostile environment, prevent its recurrence, and address its effects. The Title IX Coordinator promotes overall institutional compliance with Title IX and related laws, including adherence to procedural time frames, documenting and reporting data, and providing training and education to policy implementers and to the campus community for prevention purposes. Members of the community are encouraged to consult the Title IX Coordinator regarding questions and concerns about reporting, support and interim measures for anyone experiencing or affected by sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, and regarding information about options and processes to resolve the report. The Title IX Coordinator is trained in relevant applicable laws and the dynamics of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence.

The Title IX Coordinator is assisted by Title IX Deputy Coordinators. The Title IX Deputy Coordinators are available to meet with any member of the community and assist the Title IX Coordinator in ensuring institutional compliance. Deputy Title IX Coordinators are chosen to reflect the diversity of the Oberlin community, including roles as faculty, staff, and students, and help increase access to College Title IX programs and processes.

Information about the Deputy Title IX Coordinators can be found online at:

<https://www.oberlin.edu/equity-diversity-inclusion/staff>

The Title IX Coordinator also manages the Title IX Team. The Title IX Team supports the Title IX Coordinator and enables institutional compliance by ensuring effective and prompt response to reports as well as reviewing and implementing plans for education, prevention, and training. At a minimum, this group includes the Title IX Coordinator, Title IX Deputy Coordinators, and the Director of Safety and Security. Depending on the roles of the parties involved in a report, a designee from the appropriate divisional dean (Dean of Students, Dean of the College or Dean of the Conservatory) or the Manager of Employee and Labor Relations may join the group. In all cases, the Title IX Team will be limited to a small number of individuals who need to be informed in order to provide effective and equitable review and timely resolution of reports while protecting the privacy of parties as fully as possible.

Students, employees, or other individuals may direct questions or reports related to the application of Title IX to the Title IX Coordinator, Deputy Title IX Coordinators, and/or the U.S. Department of Education Office for Civil Rights:

Office for Civil Rights Cleveland Office  
1350 Euclid Avenue, Suite 235  
Cleveland, OH 44115  
(216) 522 – 4970  
OCR.Cleveland@ed.gov

Questions or reports involving employees may also be directed to the U.S. Equal Opportunity Employment Commission:

U.S. Equal Employment Opportunity Commission  
Cleveland Field Office  
Anthony J. Celebrezze Federal Building  
1240 E. 9th Street, Suite 3001  
(800) 669 – 4000

## Privacy vs. Confidentiality

The College is committed to protecting the privacy of all individuals involved in a report or an investigation filed under the Sexual Misconduct Policy. All College employees who participate in the College's Title IX response, including the Title IX Coordinator, Title IX Deputy Coordinators, Title IX Team members, investigators, and Hearing Panel members receive specific instruction about respecting and safeguarding private information.

Throughout the process, every effort will be made to protect the privacy interests of all involved individuals in a manner consistent with the need for a thorough review of the report. All College proceedings are conducted in compliance with the requirements of the Family Educational Rights and Privacy Act (FERPA), the Clery Act, Title IX, and state and federal law. No information shall be released from such proceedings except as required or permitted by law and College policy.

To ensure all members of the community understand how the College protects the privacy of individuals, please be aware that privacy and confidentiality have distinct meanings.

- Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those College employees who "need to know" in order to assist in the active review, investigation or resolution of the report, including the issuance of interim measures. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.
- Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These designated campus and community professionals include mental health providers, ordained clergy, trained rape crisis counselors and attorneys, all of whom have legally protected confidentiality. In addition, by policy, the College has designated a Confidential Student Advocate who is an employee of the Nord Center Sexual Assault Services staff and therefore has legally protected confidentiality with whom students, staff, and employees may consult or seek support. All of these professionals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others or the report involves suspected abuse of a minor. Sharing

information with the Confidential Student Advocate will not trigger a College investigation into an incident against the person's wishes.

### **Limits on Confidentiality**

State and federal law as well as the ethical obligation to provide an educational and occupational environment free of violence and discrimination place some limits on confidentiality for most members of the community, with the exception of those with legally-protected confidentiality. Members of the community should be aware of their reporting responsibilities in the following areas:

#### The College Requirement to Report

Responsible Employees who receive information, including partial information, about sexual misconduct are required to report all information, including the names of the parties and any known details of the incident, to the Title IX Coordinator. This requirement applies when the misconduct either occurred to or was done by any student, staff or faculty member of the college. Required reporting is an important tool for enabling the College to respond effectively and prevent sexual misconduct in a manner that is supportive of individual autonomy and respectful of individual and campus safety. Sharing all reports with the Title IX Coordinator helps to ensure that individuals affected by sexual misconduct receive prompt remedies to stop, prevent, and address discrimination and harassment, and that individuals are fully informed about remedies, accommodations, resources and options. Sharing this information also enables the College to tailor our education and prevention programs to the types of sexual misconduct reported on campus. Individual reports are vital to seeing patterns of misconduct, which will, in turn, help the College as an educator and employer respond to community needs.

Required reporting also helps to ensure that a Reporting Party and all other members of the community are connected to appropriate resources. Thus, required reporting helps to increase a Reporting Party's choices and create a campus climate that challenges silence about sexual misconduct.

Required reporting helps ensure that sexual misconduct is always treated in a serious manner. Required reporting also helps the Title IX Coordinator to ensure that every member of the campus community is provided with consistent information about resources, accommodations, options; to ensure that individual and campus safety are

addressed; and, to allow the College to tend to its many obligations under Title IX, the Campus SaVE Act, the Clery Act, and other state and federal laws.

Under Title IX, the College is required to take immediate and corrective action if a Responsible Employee knew or, in the exercise of reasonable care, should have known about sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, which creates a hostile environment. In general, a Responsible Employee includes any employee who:

- Has the authority to take action to redress the harassment; or
- Is required to report to appropriate school officials sexual harassment or any other misconduct by students or employees; or
- A student could reasonably believe that the employee has the authority or responsibility to take action.

Thus, all employees with supervisory and leadership responsibilities on campus are considered Responsible Employees. This includes, for example, faculty, coaches, administrators, Resident Advisors and other student employees or student volunteers with a responsibility for student welfare. The only employees who are exempt from the requirement to report are those with legally-protected confidentiality.

Community-wide reporting ensures that anyone who experiences such misconduct is quickly connected to resources and options and enables the College to address patterns of misconduct. Therefore,

- All other employees are **expected** to report any knowledge of sexual misconduct.
- All students who are not Responsible Employees are **strongly encouraged** to report any knowledge of sexual misconduct.

### The Protection of Minors

All members of the Oberlin community are required to report any reasonable cause to suspect that a minor (under 18 years old) is experiencing abuse or neglect based on information shared by the minor, any other individual, or one's own observations or knowledge. An Oberlin community member suspecting abuse or neglect is required to bring all suspicions to the immediate attention of the Title IX Coordinator or the Director of

Safety and Security. College policy should be understood to align with any mandatory reporting requirements under Ohio law.

#### Ohio Felony Reporting Requirements

Under Ohio law, all residents of Ohio must report felonies, including sexual assault. This legal requirement means that the Title IX Coordinator or Safety and Security will report any potential felony or any crime of violence to the Oberlin Police Department. An individual who experiences potential felony sexual misconduct may choose how to participate in any subsequent criminal investigation.

#### Ohio Medical Professional Reporting Requirements

In Ohio, medical professionals also have legally mandated reporting responsibilities. However, the medical professional must deem the patient medically stable before reporting and must communicate to the patient that the patient does not have to report and/or speak to the police. If the patient chooses not to speak to police at the time of the medical examination, the medical professional does not need to report the patient's name - only the date, general time, and general location of the incident.

#### **Requests to Protect the Confidentiality of Reporting Parties**

If a person who reports an incidence of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence (in this policy called the Reporting Party) requests that their name or other identifiable information not be shared with the person alleged to have engaged in such conduct (in this policy called the Responding Party), or requests that the College take no formal action in response to a report, the College will honor the Reporting Party's request to the extent possible based on a careful balancing of such requests with any legal reporting requirements, the risk of harm to any individual and the College's duty to maintain a safe and non-discriminatory environment for all.

The Title IX Coordinator, with the assistance of the Title IX Team, will assess such requests by examining the seriousness of the reported conduct, whether the reported misconduct was perpetrated with a weapon, the respective ages and roles of the Reporting and Responding Parties, whether there have been other reports of misconduct or discrimination by the Responding Party, whether the College possesses other means to obtain relevant evidence of sexual misconduct, whether the report reveals a pattern of misconduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular

group, and the rights of the Responding Party to receive notice and relevant information before disciplinary action is initiated.

Where possible, the Title IX Team will honor requests for confidentiality or that no action be taken so long as the College can meet its obligation to stop, address, and prevent the recurrence of the discriminatory conduct. If the College is unable to take action consistent with the wishes of the Reporting Party, the Title IX Coordinator will inform the Reporting Party about the chosen course of action, which may include an investigation and potential disciplinary action against the Responding Party. The Reporting Party will not be compelled to participate in a formal hearing if they choose not to participate. The College, however, may choose to move forward with an investigation and potential disciplinary action if there is an individual or public safety concern and sufficient independent information exists to establish that this Policy has been violated. Any action taken by the College will be designed to stop any sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, address its effects, and prevent its occurrence. In all instances, the College will take immediate action as necessary to protect and assist the Reporting Party.

If the College honors the request for confidentiality, the Reporting Party must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against a Responding Party may be limited.

### **Public Awareness Events**

Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, survivor speak outs, or other forums in which community members disclose experiences with sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, are not considered to be reporting events. Disclosing one's personal experience in this context does not serve as notice to the College of sexual misconduct and will not trigger its obligation to investigate or take action with respect to information shared. Such events, however, inform the need for campus-wide education and prevention efforts, and the College will provide information about Title IX, support, resources and option for resolution to attendees at these events.

### **Timely Warning**

If a report of sexual misconduct discloses a serious or continuing threat to the Oberlin community, the College may issue a campus-wide timely warning notice to protect the health or safety of the community. The timely warning will not include any identifying information about the Reporting Party. Even where there is no imminent threat, the College may provide campus-wide notifications on reported sexual misconduct. At no time will the College release the name of the Reporting Party to the general public without the express written consent of the Reporting Party. The release of the Responding Party's name to the general public is guided by Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

## **2. PROHIBITED SEXUAL MISCONDUCT**

### **Definitions of Prohibited Conduct**

Oberlin College prohibits all forms of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. Each of these terms encompasses a broad range of behaviors. In general, sexual violence refers to physical sexual acts perpetrated without a person's consent or where a person is incapable of giving consent for any reason, including incapacitation. Intimate partner violence refers to any act of violence or threatened act of violence (sexual, physical, verbal, emotional, economic, or otherwise) against a person who is or has been involved in a sexual, dating, domestic or other intimate relationship with that person. Conduct which prevents or impairs an individual's access to educational or occupational benefits or opportunities based on sex, gender identity and/or expression, or sexual orientation, constitutes harassment and is also prohibited.

Sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, may vary in their severity. The following descriptions represent behaviors that violate community standards and a person's rights, dignity and integrity (please note that this is not an exhaustive list):

#### **Sexual Harassment or Gender-Based Harassment:**

Sexual harassment is any unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and/or other verbal, nonverbal, or physical

conduct of a sexual nature. Sexual harassment occurs when any of the following conditions are present:

- Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of a College program or activity; or,
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e. it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, residential, or social environment under both the subjective perspective of the person who experiences such conduct and objective standard of a reasonable person's perception of such conduct.

A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to establish the existence of a hostile environment, particularly if the harassment is physical. Conduct which is pervasive or persistent, even if not severe, may also create a hostile environment.

Gender-based harassment may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, sex or gender and/or sex or gender stereotyping, even if those acts do not involve conduct of a sexual nature.

Sexual and gender-based harassment:

- May be blatant and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- May or may not include intent to harm, be directed at a specific target, or involve repeated incidents.
- May be committed by anyone, regardless of gender, age, position or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context.

- May be committed by a stranger, an acquaintance, or someone with whom the Reporting Party has an intimate or sexual relationship.
- May be committed by or against an individual or group.
- May occur by or against an individual of any sex, gender identity, gender expression or sexual orientation.
- May occur in the classroom, in the workplace, in athletic facilities, in residential settings, or in any other setting.
- May be a one-time event or part of a pattern of behavior.
- May be committed in the presence of others, when the parties are alone, or through the use of technology.
- May affect the Reporting Party and/or third parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute sexual or gender-based harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

**Physical conduct:**

- Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements
- Unwanted sexual advances

**Verbal conduct:**

- Making or using derogatory comments, epithets, slurs or humor
- Intentionally using incorrect pronouns or an incorrect name when a person has clearly stated their preferred name and pronouns.
- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations

- Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes

**Visual conduct:**

- Leering, making sexual gestures, displaying of suggestive or demeaning objects or pictures, cartoon or posters in a public space or forum
- Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading images. This example should not be understood to constrain academic freedom in teaching, research, or creative activity, or to limit intellectual and/or expressive rights.
- Letters, notes or electronic communications containing comments, words, or images described above

**Quid pro quo conduct:**

- Direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists
- Offering educational or employment benefits in exchange for sexual favors
- Making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades, or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose
- Making or threatening reprisals after a negative response to sexual advances

**Sexual Assault:**

Having or attempting to have sexual intercourse or sexual contact with another individual without consent. This includes sexual intercourse or sexual contact achieved by the use or threat of force or coercion, where an individual does not consent to the sexual act, or where an individual is incapacitated and thus incapable of consent.

Sexual assault includes the following acts:

- *Related to Non-consensual Sexual Intercourse:* Having or attempting to have sexual intercourse with another individual without consent. Sexual intercourse includes

vaginal or anal penetration, however slight, with a body part or object, or oral copulation by mouth-to-genital contact.

- *Related to Non-consensual Sexual Contact:* Having or attempting to have sexual contact with another individual without consent. Sexual contact includes kissing, touching the intimate parts of another, causing the other to touch one's intimate parts, or disrobing of another without permission. Intimate parts may include the breasts, genitals, buttocks, mouth or any other part of the body that is touched in a sexual manner.

### **Sexual Exploitation:**

Occurs when an individual takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to:

- surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- non-consensual sharing or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
- exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances (such behavior may also constitute *Public Nudity*);
- knowingly exposing another individual to a sexually transmitted infection without their knowledge;
- hazing and/or bullying related to sex or gender; and
- inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

### **Intimate Partner Violence**

Intimate partner violence is often referred to as dating violence, domestic violence or relationship violence. Intimate partner violence includes any act of violence or threatened act of violence against a person who is, or has been involved in, a sexual, dating, domestic

or other intimate relationship with the Responding Party. Intimate partner violence can encompass a broad range of behavior including all of the above categories of sexual misconduct. It may involve one act or an ongoing pattern of behavior. Intimate partner violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and all racial, social, and economic backgrounds.

### **Stalking**

A course of conduct directed at another individual that could be reasonably regarded as likely to alarm, harass, or cause fear of harm or injury to that person or to a third party. A course of conduct consists of at least two acts. The feared harm or injury may be physical, emotional, or psychological, or related to the personal safety, property, education, or employment of that individual. Stalking includes cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

### **Retaliation**

Any adverse action or attempt to retaliate or seek retribution against a Reporting Party, Responding Party, or any individual or group of individuals involved in a report, investigation and/or resolution of an allegation of sexual misconduct or as a result of knowledge about a potential violation of this policy which has not been reported.

Retaliation can be committed by any individual or group of individuals. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence or other forms of harm to others, and in varying modes, including in person and in electronic and online communication. Retaliation can also include adverse employment or educational actions made or taken against an individual because of their good faith participation in the reporting, investigation, and/or resolution of an alleged violation of this policy and/or any conduct that would discourage a reasonable person from engaging in further protected activity.

### **Public Nudity**

Public nudity occurs when a person exposes one's private parts or engages in sexual conduct or masturbation in any public place or in any place where the person's conduct is

likely to be viewed by and affront others who are in the person's physical proximity. This prohibition aligns with Ohio law on public indecency ([Ohio Revised Code 2907.90](#)). This policy's prohibition against public nudity should be understood as a strategy to prevent the development of hostile environments. It is not intended to place constraints on academic freedom, which protects intellectual and expressive representations of the body and classroom materials which may include nudity.

### **Evaluation of spouses, intimate partners, or family members**

Because of the concern with power dynamics as well as the importance of addressing conflicts of interest, Oberlin College prohibits employees from participating in evaluative personnel decisions (including those related to hiring, performance review, compensation, and termination) about other employees with whom they are in a sexual, intimate, and/or familial relationship.

### **Prohibited Relationships by Persons in Authority**

Because of the potential negative impact on individuals as well as the College learning and working community, faculty and staff members are prohibited from engaging in sexual relationships with students to whom they are not married or in formal domestic partnerships, even when both parties believe the conduct is consensual. This prohibition reflects an understanding that power inequalities due to role differences between faculty/staff and students affect the possibilities of effective consent. This prohibition also reflects the College's commitment to respecting the integrity and character of the unique teaching relationship that exists between faculty and students. Sexual relations between persons occupying asymmetrical positions of power, even when both consent, raise suspicions that the person in authority has violated standards of professional conduct and potentially subject the person in authority to charges of sexual harassment based on changes in the perspective of the individuals as to the consensual nature of the relationship. Similarly, these relationships may impact third parties based on perceived or actual favoritism or special treatment based on the relationship. Retaliation against persons who report concerns about consensual relationships is prohibited and constitutes a violation of this policy. In cases where there is a pre-existing relationship between an employee and a student, that employee must disclose the relationship to the Office of Human Resources prior to beginning employment so that appropriate communication and support can occur.

## Effective Consent , Coercion, and Incapacitation

Obtaining effective consent of all sexual partners is crucial in order to prevent sexual violence and is required by the Sexual Misconduct Policy. Effective consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity. It is the responsibility of both parties who engage in sexual activity to ensure that effective consent is obtained for each sexual act and over the entire course of each sexual encounter. The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts. Consent may be withdrawn at any time, and at that time, all sexual activity must cease unless and until additional unambiguous consent is given.

The following are essential elements of effective consent:

- *Informed*: all parties demonstrate a clear and mutual understanding of exactly what they are consenting to.
- *Freely and actively given*: there is no coercion, force, threats, intimidation, or pressure.
- *Mutually understandable*: expressed in words or actions that indicate a clear willingness to participate in each sexual act. Silence does not equal consent.
- *Specific to a given situation*: consent is not indefinite. Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time.

Because consent should be positively communicated through words or actions in an ongoing fashion, consent cannot be inferred or assumed based on silence, lack of verbal objection, lack of physical resistance, previous sexual relationships, and/or a current sexual relationship.

### Barriers to Effective Consent

Effective consent cannot be obtained through the use of fraud or force (actual or implied), threats, intimidation, or coercion. A lack of perceptible resistance (verbal or physical attempts to communicate a lack of consent) does not constitute evidence that consent was given. Under the following conditions, effective consent is not possible:

- **Age:** In the state of Ohio, consent to sexual activity cannot be given by minors under the age of 16.
- **Force:** Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. For the use of force to be demonstrated, there is no requirement that a Reporting Party resists the sexual advance or request. However, resistance by the Reporting Party will be viewed as a clear demonstration of non-consent.
- **Coercion:** Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Examples of coercion include threatening to disclose private information about someone's sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.
- **Incapacitation:** Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring. The use of alcohol or other drugs does not, in and of itself, negate a person's ability to give consent, but a level of intoxication can be reached, short of losing consciousness, in which a person's judgment is so impaired that they become incapacitated and thus are not capable of giving consent. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impact an individual's:
  - decision-making ability;
  - awareness of consequences;
  - ability to make informed judgments; or
  - capacity to appreciate the nature and the quality of the act.

Because the use of alcohol and other drugs can have a cumulative effect over time, a person who may not have been incapacitated at the beginning of sexual activity may become

incapacitated and therefore unable to give effective consent as the sexual activity continues.

Evaluating incapacitation also requires an assessment of whether a Responding Party, or a sober, reasonable person in the Responding Party's position, knew or should have known, that the Reporting Party was incapacitated. If the person who wants to engage in sexual activity is too intoxicated to judge another's communications about consent, that person has an obligation to cease the activity. A person's responsibility for obtaining consent is not diminished by use of alcohol and/or other drugs. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, sexual violence, stalking or intimate partner violence and does not diminish one's responsibility to obtain consent.

### **3. RESOURCES AND SUPPORT**

The College is committed to treating all members of the community with dignity, care and respect. Any student, staff or faculty member who experiences or is affected by sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, whether as a Reporting Party, a Responding Party, or a third party, will have equal access to support and counseling services through the College. Interim remedies are also available to all parties regardless of what course of action a Reporting Party chooses.

The College recognizes that deciding whether or not to report sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, either to the College or law enforcement, can be difficult. All individuals are encouraged to seek the support of trained professionals on campus and in the local community, regardless of when or where the incident occurred. These professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to any party in the event that a report and/or resolution under this policy is pursued.

As detailed online at <https://www.oberlin.edu/equity-diversity-inclusion>, there are Confidential Resources which by law cannot share information without the consent of the individual seeking assistance. There are also a variety of College resources that will be discreet and private, but are not considered confidential. These resources will maintain the privacy of

an individual's information within the limited circle of those involved in the resolution of a report under this policy.

## 4. Reporting

### Introduction

To report a violation of the Sexual Misconduct Policy, contact the Title IX Coordinator or other designated administrator below. These administrators are specifically trained in the dynamics of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, and Oberlin College's Sexual Misconduct Policy. A report can be made in person, by telephone, by email, or online using an intake form (available on the website of the Office of Equity Concerns). A report can also be made anonymously.

Oberlin College encourages timely reporting of sexual misconduct. Prompt reporting helps ensure the preservation of evidence and timely investigation. The College does not, however, limit the time frame for reporting, and will respond to a report regardless of when or where the incident occurred.

When the College becomes aware of a report of sexual misconduct, it is committed to offering prompt, effective, and sensitive assistance to a Reporting Party (student or employee) and to protecting the community from harm. The College recognizes its legal obligation to take immediate and effective steps in response to an allegation of sexual misconduct, including an initial Title IX assessment of the allegation, instituting interim measures to protect the Reporting Party, and, based on the outcome of informal or formal resolution, taking action to end any sexual misconduct, prevent its recurrence, and address its effects on the Reporting Party or any other member of the college community. The College is committed to providing a fair, equitable, and timely process to all parties.

The College strives to empower a Reporting Party by allowing as much personal control over various steps of the sexual misconduct response process as the circumstances of the reported misconduct and legal and policy requirements allow. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. Oberlin College strongly encourages anyone who has experienced sexual misconduct to report it for their own protection and support as well as for the safety of the College

community. At the time a report is made, a person does not have to decide whether or not to request any particular course of action, nor does a person need to know how to label what happened. The College provides support that can assist each individual in making these important decisions, and to the extent legally possible, will respect an individual's autonomy in deciding how to proceed. At all times, the College will balance respect for the stated preferences of the Reporting Party with its obligation to protect individual and campus safety.

Pursuing Oberlin College's process does not mean a Reporting Party waives the right to a criminal or other legal process and vice versa. To the contrary, the College encourages a Reporting Party to explore all options, including resolving a report through both Oberlin's processes and external law enforcement. Individuals who report a violation of the Oberlin College Sexual Misconduct policy will be informed about the process of reporting sexual misconduct to law enforcement. The College will assist parties who are reporting sexual misconduct to make contact with community agencies that provide advocates to people who are seeking civil protection orders. The College will honor any such order of protection or similar lawful order issued by a criminal or civil court. Participation in a College investigation or adjudication process does not supersede any rights or obligations of participating parties in any other legal processes.

On receiving a report, the Title IX Coordinator will reach out to the Reporting Party in order to provide a written explanation of the individual's rights and options and offer to meet with the person to further discuss these options.

## Emergency Reporting Options

In case of a safety or health emergency, the following resources can provide or connect you to emergency services:

- **Emergency Services**  
911 (24 hours)
- **Oberlin Police Department**  
(440) 774-1061
- **Safety and Security**  
(440) 775-8911 (24 hours)

Safety and Security will seek to honor any request for the gender of an officer who receives a report, staffing permitting.

- **Lorain County Rape Crisis/Nord Sexual Assault Care Unit**

(800) 888-6161 (24 hours)

- **Genesis House**

(440)244-1853

or

(440)323-3400

Genesis House provides a comprehensive range of family-focused services for Lorain County Victims of Domestic Violence. Such services provide the tools to maximize their opportunity to survive, obtain physical and mental well-being and independence, and minimize the trauma involved in coping with family violence.

- **Lorain County Mental Health Crisis Hotline**

(800) 888-6161 (24 hours)

## Campus Reporting Options

All of the following offices and individuals are prepared to receive reports of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. On weekends and after business hours on weekdays, Safety and Security is available to help members of the community access reporting options and support resources such as the Dean on Call.

Each of these administrators are Responsible Employees, which means that they are required to share the known details of the report with the Title IX Coordinator in order to connect the Reporting Party to information and support through the central review process.

- **Title IX Coordinator**

Rebecca Mosely, Title IX Coordinator

440-775-8555

Available during weekday working hours to coordinate a fair and equitable response to reports of sexual misconduct.

- **Safety and Security**

(440) 775 – 8911 (emergency); (440) 775-8444 (non-emergency)

Available as a first option to report an incident of sexual. Also provides an escort service on campus to any student and can reach the on call staff at any time.

Available 24 hours a day, 7 days a week.

- **Office of the Dean of Students**

(440) 775-8462

The Office of the Dean of Students is open during weekday working hours.

- **Human Resources**

(440) 775-8430

The Office of Human Resources is available during weekday working hours to provide assistance to employees on a range of issues.

## Anonymous Reporting Options

Any individual may make an anonymous report concerning an act of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. An individual may report the incident without disclosing their name, identifying the Responding Party or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the College's ability to respond to an anonymous report may be limited. Currently, an anonymous report can be made by submitting a written document through campus mail to the Rebecca Mosely, Title IX Coordinator, Carnegie 204.

The Title IX Coordinator will receive the anonymous report and will determine any appropriate steps, including individual or community remedies as appropriate, and in consultation with the Director of Safety and Security, compliance with all Clery Act and Campus SaVE Act obligations.

## Off Campus Reporting Options

Conduct that may be criminal in nature can be reported to local law enforcement.

- **Oberlin Police Department**  
Non-emergency: 440-774-1601  
Emergency: 911
- **Lorain County Prosecutor**  
(440) 329-5389

Conduct that may implicate civil rights can be reported to external regulatory agencies.

- **Office for Civil Rights, Cleveland Office**  
**(216) 522 – 4970**  
OCR.Cleveland@ed.gov  
The OCR serves students and employees facing discrimination and promotes systemic solutions to civil rights problems. An important responsibility is resolving reports of harassment, discrimination and retaliation.
- **U.S. Equal Employment Opportunity Commission, Cleveland Field Office**  
(800) 669 – 4000  
The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

## Reporting Considerations

### **Timeliness and Location of Incidents**

Reporting Parties and third-party witnesses are encouraged to report sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, as soon as possible in order to maximize the College's ability to respond promptly and effectively. Timely reporting enables the College to provide greater options for support, investigation and adjudication, especially as relates to crisis counseling, the preservation of evidence, and security and law enforcement responses. The College does not, however, limit the time frame for reporting.

The College encourages reporting, regardless of when or where the incident occurred, and regardless of whether the Responding Party is a student or employee of Oberlin College. In every report, the College will support the Reporting Party and provide information and assistance. If the Responding Party is not a member of the Oberlin community, or is no longer a student or employee, the College will still seek to meet its Title IX obligations by taking steps to end the harassment, prevent its recurrence, and address its effects. While the College's ability to take disciplinary action may be limited given the participants' current standing, the College will assist a Reporting Party in identifying any external reporting options, including law enforcement.

An incident does not have to occur on campus to be reported to the College. Off-campus conduct is subject to this policy if the conduct occurred in the context of an education program or activity of the College or had continuing adverse effects on campus or in an off-campus education program or activity.

If an individual experiences sexual and/or gender harassment online, in a public space like a street, or in a private space like a house party and doesn't know who is responsible for the conduct, that person is still encouraged to report their experience to the Title IX Coordinator to ensure they are offered appropriate support. These reports also enable the College to keep track of any patterns related to such events and thus identify effective interventions, such as increased lighting, online bystander training, or other education and prevention campaigns.

### **Amnesty for Alcohol or Other Drug Use**

Oberlin College will most effectively be able to prevent, stop, and address the effects of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, when as many people who experience such conduct and those who witness it share what they know. To encourage reporting and honest participation in an investigation, an individual who reports sexual misconduct, either as a Reporting Party or a third-party witness, and an individual who is a Responding Party, will not be subject to disciplinary action by the College for their personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The College may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

## **Coordination with Law Enforcement**

The College will inform a Reporting Party about the option to pursue criminal action for incidents of sexual misconduct that may also be crimes under Ohio law. If requested, the College will assist a Reporting Party in making a criminal report and cooperate with law enforcement agencies to the extent permitted by law. Either party may also choose to seek professional legal advice if they are navigating both College and legal processes.

The College's policy, definitions and burden of proof may differ from Ohio criminal law. In some respects, College policies offer greater protection than state law. A Reporting Party may seek recourse under this policy and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a Responding Party, nor the outcome of any criminal prosecution, are determinative of whether a violation of this policy has occurred. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

At the request of law enforcement, the College may agree to defer its Title IX fact gathering until after the evidence gathering stage of a criminal investigation. The College will nevertheless communicate with the Reporting Party regarding Title IX rights, procedural options and the implementation of interim measures to assure safety and well-being. The College will promptly resume its Title IX fact gathering as soon as it is informed that law enforcement has completed its initial investigation. The College may not, by federal law, wait to address reports of sexual misconduct until any external legal processes are resolved.

## **5. Interim Measures**

### **Overview**

Upon receipt of a report of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, the College will impose reasonable and appropriate interim measures designed to protect the parties and the integrity of any investigation. In imposing these measures, the College will make reasonable efforts to communicate with the parties to ensure that all safety, emotional and physical well-being concerns are being addressed. Interim measures are available, as

appropriate, regardless of whether a Reporting Party seeks an investigation or formal resolution.

Interim measures, in and of themselves, are not a resolution to a report. They are temporary actions taken by the College to foster a more stable and safe environment during a period of ongoing exploration of options, investigation and/or adjudication. Interim measures are initiated based on information gathered during a report and are not intended to be permanent resolutions; hence, they may be amended or removed as additional information is gathered.

Interim measures may be requested by the parties or imposed by the College on its own initiative. For example, a Reporting Party or a Responding Party may request a no contact notice or other protection, or the College may choose to impose interim measures at its discretion to ensure the safety of all parties, the broader College community and/or the integrity of the process.

All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by an interim measure. The College will take immediate and responsive action to enforce a previously implemented measure. Failure of the parties to comply with interim measures may result in disciplinary action, even if the initial report of sexual misconduct is later not proven.

The College supports the right of students and employees to seek a protection order from a civil or criminal court. The College honors any existing protection orders provided to Safety and Security by members of the College community.

## Range of Measures

Interim measures will be implemented at the discretion of the College. Potential measures, which may be applied to the Reporting Party and/or the Responding Party, include:

- Access to counseling services and assistance in setting up an initial appointment, both on and off campus
- Providing medical services
- Imposition of a campus no contact order
- Imposition of a no trespass order

- Security assistance (examples might include security escorts, increased patrol; accompanying a student during an interview with OPD; transports to hospital or Nord, etc.)
- Transportation assistance
- Academic accommodations (with agreement of the appropriate faculty, who will not be informed of the specific reason for the request with permission of the student):
- Rescheduling of exams and assignments
- Providing alternative course completion options
- Change in class schedule or other academic accommodations, without penalty to the party
- Providing academic support services, such as tutoring
- Change in work schedule or job assignment
- Residence modifications:
- Change in on-campus housing
- Arranging to dissolve a housing contract and pro-rating a refund in accordance with campus housing policies
- Receive requests for assistance from College support staff in completing housing relocation
- Limit an individual or organization's access to certain College facilities or activities pending resolution of the matter
- Voluntary leave of absence
- Interim suspension or College-imposed leave
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

## **Interim Suspension or Leave**

Where the report of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, poses a substantial and immediate threat of harm to the safety or well-being of an individual, members of the

campus community, or the performance of normal College functions, the College may place a student or student organization on interim suspension. Employees may be placed on administrative leave or suspended depending on their employment classification.

Pending resolution of the report, the individual or organization may be denied access to campus, campus facilities and/or all other College activities or privileges for which the student or employee might otherwise be eligible, as the College determines appropriate. When interim suspension or leave is imposed, the College will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

## ***6. Title IX Review, Investigation, and Resolution***

### **Overview**

Upon receipt of a report, the College's Title IX Team will conduct an initial Title IX assessment. The goal of this assessment is to provide an integrated and coordinated response to reports of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. The assessment will consider the nature of the report, the safety of the individual and of the campus community, and the Reporting Party's expressed preference for resolution in determining the appropriate course of action to eliminate the conduct at issue, prevent its recurrence and address its effects.

At the conclusion of the assessment, the Title IX Team may refer the report for informal resolution, which includes the identification of remedies to stop the sexual misconduct, address its effects, and prevent its recurrence. Informal resolution does not involve disciplinary action against a Responding Party. Alternatively, the Title IX Team may refer the matter for formal resolution. Formal resolution begins with an investigation. The goal of the investigation is to gather all relevant facts and determine if there is sufficient information to refer the report to an adjudication or grievance process in order to determine responsibility and impose disciplinary action if appropriate.

The initial steps for any resolution of a report of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, against a student, staff member, or faculty member will involve the same stages:

an initial assessment, investigation, and the determination to pursue either informal or formal resolution. Informal resolution options are the same for reports against a student, staff or faculty member. Similarly, the investigative process is the same for all three. For formal resolution, the hearing procedures will differ somewhat based on who the responding party is in regards to the decision making individual or group, however the general procedures will remain the same. The decision makers in each of these cases reflect the differing nature of each constituent's relationship to the College, but all contain similar hallmarks of prompt and equitable process.

The Title IX Coordinator will document each report or request for assistance in resolving a case involving charges of sexual misconduct, whether formal or informal, and will review and retain copies of all reports generated as a result of any investigation. These records will be kept confidential to the extent permitted by law.

## **The Role of the Title IX Team**

The Title IX Team, led by the Title IX Coordinator, assists in the review, investigation and resolution of reports. At a minimum, this group includes the Title IX Coordinator, Title IX Deputy Coordinators, Share Coordinator and the Director of Safety and Security and/or designee. Depending on the roles of the parties involved in a report, a designee from the appropriate divisional dean (Dean of Students, Dean of the College or Dean of the Conservatory) or the Manager of Employee and Labor Relations may join the group. In all cases, the Title IX Team will be limited to a small number of individuals who need to be informed in order to provide effective and equitable review and timely resolution of reports while protecting the privacy of parties as fully as possible. Regular members of the Title IX Team receive annual training in strategies to protect parties who experience sexual misconduct or other forms of sex- and/or gender-related harassment and discrimination and to promote individual and institutional accountability.

Although a report may be made to any Responsible Employee, all reports received by Responsible Employees will be referred to the Title IX Coordinator to ensure consistent application of the policy to all individuals and to allow the College to respond promptly and equitably to eliminate the sexual misconduct, prevent its recurrence, and address its effects. The Title IX Team helps to meet these goals by overseeing the resolution of all reports under this policy. The Title IX Team will also ensure that all students and employees, whether Reporting Parties or Responding Parties, have appropriate guidance

throughout the investigation and resolution of the report. The Title IX Team also reviews and implements interim remedies to provide protection and security while a resolution is being reached.

## **Advisors, Support Persons and Attorneys**

All parties are entitled to advice and support during the process. In addition, the parties may consult the Title IX Coordinator, who does not participate directly in formal resolution. Attorneys may not participate in the proceedings outside of the role of advisor as described below.

### **Advisor**

In any hearing, the Reporting Party and Responding Party may choose to be assisted by an advisor of their choice. The parties may select their own advisor, or may select an advisor from a list of campus community members who have undergone Title IX training to guide a party through the pre-hearing and hearing process. An outside advisor will be required to meet with the Hearing Coordinator or the Title IX Coordinator in advance of any participation in the proceedings to be informed about College expectations regarding confidentiality of the process. The advisor may accompany the party to any College investigative, administrative meeting, or hearing. The advisor may not speak on the behalf of their advisee. All communication regarding the process must come from the advisee to the college other than general questions regarding how the process and/or policy works. The advisor may not address the panel during the hearing, or otherwise delay, disrupt, or interfere with any meeting or proceeding. Attorneys serving as advisors must adhere to the expectations of the role as described in this policy.

### **Support Person**

A Reporting Party and Responding Party may also choose to be assisted by an emotional support person of their choice. To serve as a support person, the individual will be required to meet with the Hearing Coordinator or the Title IX Coordinator in advance of any participation in the proceedings to be informed about College expectations regarding confidentiality of the process.

The support person cannot be a witness in the proceedings. The support person is a silent and non-participating presence who is there solely to observe and provide moral support during the hearing itself. This person is not to address the Hearing Panel, except to ask for a

short recess if one of the parties requires some time to compose themselves or collect their thoughts. The support person may not delay, disrupt, or interfere with any meeting or proceeding. The Hearing Coordinator has the right at all times to determine what constitutes appropriate behavior on the part of a support person and whether the person may remain at the proceedings. While the support person may be present to hear testimony, no written materials are to be shared with support persons.

Absent extenuating circumstances, witnesses and others involved in an investigation or hearing are not entitled to have a support person present.

### **Role of the Attorney/Outside Agreements**

The College prohibits outside attorneys, or family members acting as attorneys, from participating in proceedings under this policy in any manner other than the role of advisor outlined above. As noted, parties have a right to an advisor of their choice, and may choose an attorney to fill this role at their own expense. The College will not recognize or enforce agreements between the parties outside of these procedures.

## **Initial Title IX Assessment**

In every report of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, the College will make an immediate assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. These steps may include interim protective measures to provide for the safety of the individual and the campus community.

The initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, an investigation may be initiated depending on a variety of factors, such as the Reporting Party's wish to pursue formal or informal resolution, the risk posed to any individual or the campus community, and the nature of the allegation.

The first step of the assessment will usually be a preliminary meeting between the Reporting Party and the Title IX Coordinator or a member of the Title IX Team. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full scale interview. At this meeting,

the Reporting Party will be provided with information about support and advocacy resources, interim remedies and options for resolution.

At the conclusion of the Title IX assessment, the Title IX Team will determine the appropriate manner of resolution and, if appropriate, refer the report either for informal resolution or for further investigation and, if the appropriate threshold is met, formal resolution.

The determination as to how to proceed will be communicated to the Reporting Party in writing. Depending on the circumstances and requested resolution, the Responding Party may or may not be notified of the report or resolution. A Responding Party will always be notified when the College seeks action that would directly impact a Responding Party, such as protective measures that restrict their movement on campus, the initiation of an investigation, or the decision to involve the Responding Party in informal resolution. If the Title IX Team recommends formal resolution, an Investigator will be assigned to facilitate the formal resolution process. The Investigator will be trained in campus policy and the dynamics of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. The Investigator in collaboration with the Title IX Coordinator or designee will have the responsibility to ensure that procedures are timely and impartial and that all parties are informed appropriately at each step of the process.

## **Informal Resolution**

Informal resolution eliminates a potential hostile environment by identifying and implementing remedies to stop sexual misconduct, address its effects, and prevent its recurrence. Because it does not involve a formal adjudication process, it does not result in disciplinary action against the Responding Party.

Where the Title IX assessment concludes that informal resolution may be appropriate, the College will take immediate and corrective action through individual and community remedies designed to maximize the Reporting Party's access to all employment, educational, and extracurricular opportunities and benefits at the College and to eliminate a potential hostile environment.

In addition to the range of interim measures previously described, the College may also:

- Provide targeted and/or broad-based training and educational programming for relevant individuals and groups;
- Provide increased monitoring, supervision or security at locations or activities where the misconduct occurred;
- Facilitate a meeting with the Responding Party with the agreement of both parties, with both parties present or through indirect action by the Title IX Coordinator; and,
- Any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

The College will not compel a Reporting Party to engage in mediation, to directly confront the Responding Party, or to participate in any particular form of informal resolution. Mediation or restorative justice practices may not be appropriate forms of resolution in all cases, and will only be used when both the college and the parties mutually agree that these processes are appropriate ways to resolve the report. Depending on the form of informal resolution used, it may be possible to maintain anonymity of Reporting Parties and witnesses.

The decision to pursue informal resolution will be made when the College has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in informal resolution is voluntary for all parties, and a Reporting Party can request to end informal resolution at any time. At that time, the report may be referred for formal resolution. Factors that will shape the Title IX Team's recommendation will include the nature of the report, the Reporting Party's stated preference, and relevant evidence about patterns of conduct.

The Title IX Coordinator will maintain records of all reports and conduct referred for informal resolution. Informal resolution will typically be initiated within 30 business days of the initial report.

## Investigation

Based on the findings of the initial Title IX assessment, the College may initiate a prompt, thorough and impartial investigation. The Title IX Coordinator, in consultation with the Title IX Team, will oversee the investigation. Information gathered during the investigation will be used to evaluate the appropriate course of action, provide for the safety of the individual and the campus community, and offer remedies as necessary to address the effects of the conduct cited in the report. An investigation is also required if the Title IX Team believes that disciplinary action may be appropriate.

The investigation is designed to provide a fair and reliable gathering of the facts. All individuals involved in the investigation, including the Reporting Party, the Responding Party, and any third-party witnesses, will be treated with appropriate sensitivity and respect. Throughout the investigation and resolution processes, both parties will receive timely notice of any meeting at which their attendance may be requested or required. Consistent with the need for a full assessment of the facts, the investigation will safeguard the privacy of the individuals involved. Parties with documented disabilities have the right to request accommodations necessary to be able to fully participate in the investigation and resolution of reports.

The College will designate an investigator who has specific training and experience investigating allegations of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. The investigator may be an employee of the College or an external investigator engaged to assist the College in its fact gathering. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest.

The investigator will gather information from the Reporting Party, the Responding Party, and any other individuals who may have information relevant to the determination. The investigator will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. The investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the Responding Party. The Reporting Party and Responding Party will have an equal opportunity to be heard, to submit evidence, and to identify witnesses who may have relevant information.

The investigation will be completed expeditiously, usually within 30 business days, although the complexity of a report may require a longer time frame. The time frame may be extended for good cause to ensure the integrity and completeness of the investigation, to accommodate the availability of witnesses, to address College breaks or vacations, or other legitimate reasons. Any extension of the timeframes, and the reason for the extension, will be shared with the parties in writing.

#### Threshold Determinations and Request for Review from Insufficient Threshold

At the conclusion of the investigation, the investigator will prepare a written report synthesizing the facts for review by the Title IX Coordinator and a Hearing Coordinator. The investigator is not charged with reaching a determination as to responsibility, which is a function reserved for the Conduct Conference or the Hearing Panel/Administrator.

Upon receipt of the investigative report, the Hearing Coordinator, in consultation with the Title IX Coordinator, and as appropriate, the Title IX Team, will review the report and make a threshold determination as to whether there is sufficient factual information upon which a Hearing Administrator or Body could find a violation of this policy. This threshold determination does not involve making a determination of responsibility, nor does it involve assessing the credibility of the parties. If the threshold has been established, the Hearing Coordinator will issue a notification letter to the Responding Party and the Reporting Party and refer the report for the appropriate resolution procedures.

If the Hearing Coordinator, in consultation with the Title IX Coordinator, determines that this threshold has not been reached (that is, that there is not sufficient evidence which could support a policy violation), the Reporting Party and Responding Party will be notified in writing. The Reporting Party will have the opportunity to seek review by the appropriate divisional head or the Manager of Employee and Labor Relations (or their designee) by submitting a written request for review within 5 business days of receipt of the notification. Where a designee is chosen, the identity of this individual will be shared with both parties.

If a request for review is filed, the Responding Party will be notified and have the opportunity to respond within 5 business days. The divisional head or the Manager of Employee and Labor Relations (or their designee) may affirm the threshold finding, reverse the finding or remand the matter for additional investigation as warranted. The divisional head or the Manager of Employee and Labor Relations (or their designee) will render a

decision in writing, to both parties, within 10 business days of receipt of the request for review and the response to such request. The decision of the divisional dean or the Manager of Employee and Labor Relations (or their designee) affirming the threshold finding that there is insufficient information to proceed is final.

The Title IX Team always has the discretion to determine if additional measures are necessary to achieve resolution or provide support for the parties. In a report where the investigation does not move forward to formal resolution, informal resolution may be an appropriate course of action.

## Formal Resolution

Disciplinary action against a Responding Party may only be taken through Formal Resolution procedures. Because the relationship of students, staff, and faculty to the College differ in nature, the individual(s) who will conduct the hearing process will also differ. Each of the procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under this policy.

The specific procedures for Formal Resolution will vary based upon the role of the Responding Party:

- For a **report against a student**, disciplinary action may be taken by the Dean of Students or designee if the student accepts responsibility for the conduct, or after a Formal investigation when a hearing panel comprised of three trained staff members reaches a finding of responsibility and recommends appropriate sanctions.
- For a **report against a staff member**, disciplinary action may be taken at the conclusion of the review by the appropriate divisional head or their designee or Manager of Employee and Labor Relations, in consultation with the Title IX Coordinator.
- For a **report against a faculty member**, disciplinary action may be taken at the conclusion of a review by a panel composed of members of the General Faculty Professional Conduct Review Committee. The panel will recommend sanctions to

the appropriate academic dean or designee if the investigation results in a finding of responsibility.

### **Time Frame for Resolution**

The College seeks to resolve all reports within 60 business days of the initial report. All time frames expressed in this policy are meant to be guidelines rather than rigid requirements. Extenuating circumstances may arise that require the extension of time frames, including extension beyond 60 business days. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation, or other unforeseen circumstances.

In the event that the investigation and resolution exceed this time frame, the College will notify all parties of the reason(s) for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

### **The College as Reporting Party**

On some occasions, Oberlin College will assume the function of the Reporting Party. This approach may be taken in instances of multiple reports about a single Responding Party, when a Reporting Party chooses not to participate in the hearing process, or other occasions when the College has sufficient evidence to reach a threshold determination that a report should be referred to formal resolution. In these instances, the Title IX Coordinator will appoint an administrator as the institutional representative to serve as the Reporting Party.

## **Support for Parties after Formal Resolution**

The Title IX Coordinator is available to provide support and to identify campus and external resources to assist all parties and witnesses once a resolution has been reached. The goal of such support is to address any personal needs and to facilitate the participation of all individuals in the campus community in whatever ways are appropriate given any sanctions that may have been imposed.

## 7. Procedures for Formal Resolution of Reports

### Overview

Formal resolution of a report under the Sexual Misconduct Policy will occur either through an investigation resulting in a finding about responsibility as described previously. If a violation of the policy is found, sanctioning will be completed as previously described.

If resolution involves a Conduct Conference (for students only), the Hearing Coordinator will meet with the Reporting Party and Responding Party to determine responsibility and render a decision as to what sanctions, if applicable, should be implemented. If resolution involves a Hearing Panel, the Hearing Coordinator will be responsible for facilitating the formal resolution process, including the appointment of the appropriate hearing bodies/administrator to conduct the hearing. These appointments will take into account the need for a timely process and any conflicts of interest. In addition, when hearing panels are utilized, the hearing coordinator will make an attempt to ensure that the panel represents a diverse set of campus and professional expertise.

Any parties who conduct investigations, make sanctioning determinations, or hear appeals must participate in annual training on non-discrimination; the dynamics of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence; the factors relevant to a determination of credibility; the appropriate manner in which to receive and evaluate sensitive information; the manner of deliberation; evaluation of consent and incapacitation; the application of the preponderance of the evidence standard; sanctioning and the College's policies and procedures. The training will be coordinated by the Title IX Coordinator in conjunction with campus and external partners.

The investigators, appeals officers, and sanctioning officers are supported by the Hearing Coordinator and Title IX Coordinator, who are present at Hearing Panel meetings, but are not voting members of the hearing body. The Hearing Coordinator and Title IX Coordinator will meet with all involved parties prior to the hearing, be present during the hearing to serve as a resource for the Hearing Panel and the parties on issues of policy and procedure, and to ensure that policy and procedure are appropriately followed throughout the hearing.

In most cases, it should be possible to convene a Hearing Panel; however if the hearing must be heard at or after the end of the semester or academic year or during Winter Term and/or a full Hearing Panel cannot reasonably be convened, those cases may be heard by the Dean of Students (or designee) or the College may substitute an alternate method of adjudication at its discretion.

## **Conduct Conference**

A Reporting Party or Responding Party may request resolution through an administrative Conduct Conference, in which the Hearing Coordinator will meet with the Reporting Party and Responding Party to determine responsibility and, if applicable, render a decision as to what sanctions should be implemented. Both parties and the Hearing Coordinator must agree that the matter is appropriate for resolution by a Conduct Conference. Depending upon the nature and severity of the allegations, the Hearing Coordinator may decline to handle the matter administratively and refer the case to a Hearing Panel.

A Conduct Conference is appropriate when the Responding Party is a student, has admitted to the misconduct, and there is no discernible dispute in the relevant facts of the investigation report.

All parties must have notice, the opportunity to review the investigative report in advance, and the opportunity to present any additional relevant information to the Hearing Coordinator prior to conducting a Conduct Conference. Based on the outcome of the Conduct Conference, the Hearing Coordinator will issue an appropriate sanction. The Hearing Coordinator may also recommend remedies for the Reporting Party and remedies for the Oberlin community. On the conclusion of the Conduct Conference, the Title IX Coordinator is responsible for reviewing, adjusting, and implementing these remedies in order to eliminate the hostile environment and prevent its recurrence.

Both a Reporting Party and Responding Party may appeal the determination of the Hearing Coordinator as provided in the Appeal section below.

## Pre-Hearing Procedures

The pre-hearing process, described below, is crucial to ensuring a fair and equitable process. The Hearing Coordinator is responsible for managing the pre-hearing process. The timelines described below are designed to ensure that the parties have adequate notice to review information and submit related requests to the Hearing Coordinator, as well as to allow the Hearing Coordinator sufficient notice to arrange witnesses or address related concerns. In consultation with the Title IX Coordinator, the Hearing Coordinator may make appropriate adjustments to the timeframes provided to achieve these goals as well as ensure a timely and equitable process. The Hearing Coordinator will have the authority to designate reasonable time frames with respect to the notice provisions regarding witnesses, prior sexual history and/or pattern evidence.

### **1. Notice of Charges**

Following the threshold determination that there is sufficient information to move forward with a hearing, the Hearing Coordinator will send a Notification Letter to both the Reporting Party and the Responding Party. The Notification Letter provides each party with a brief summary of the conduct at issue and the specific policy violation(s) that are alleged to have taken place.

### **2. Acceptance of Responsibility**

If a Responding Party wishes to accept responsibility for the charges, they may request an administrative conference with the Hearing Coordinator. In this instance, the Responding Party will provide a written acceptance of the facts of the allegation. The Hearing Coordinator will then convene a Hearing Panel/Administrator (referred to as the Hearing Body from here forward). The Hearing Body's role will be solely to determine appropriate sanctions. The investigative report will serve as the primary evidence in making this determination. The Reporting Party, the Responding Party, and the Hearing Body retain the right to call witnesses in order to assess sanctions and will follow the time frames and procedures described in this description of pre-hearing procedures.

### **3. Pre-Hearing Meeting with Reporting Party and Responding Party**

Following the Notification Letter, the Hearing Coordinator will contact the Reporting Party and Responding Party to schedule separate meetings with each party. At this pre-hearing meeting, each party will receive an explanation of the hearing process and have the

opportunity to ask any questions. The Advisor is encouraged to accompany the Reporting Party or Responding Party to this initial meeting.

#### **4. Notice of Hearing**

Once each party has met with the Hearing Coordinator, a Notice of Hearing is sent to the Reporting Party and the Responding Party. The Notice provides the parties with the date, time, and place of the hearing, as well as the names of the individual panelists on the Hearing Panel or the Hearing Administrator. In general, the hearing will be scheduled within 10 business days of the date of the Notice of Hearing. This time frame may be extended for good cause, with written notice to the parties of the extension and the reason for the extension.

#### **5. Composition of the Hearing Panel**

The Reporting Party and the Responding Party may each submit a written request to the Hearing Coordinator that a member of the Hearing Panel be removed. The request must clearly state the grounds to support a claim of bias, conflict of interest or an inability to be fair and impartial. This challenge must be raised within 2 business days of receipt of the Notice of Hearing. Panels for the student process will be chosen based on availability of the panelists and will attempt to include members who embody a diverse set of perspectives and identities. Panels for processes involving the Professional Conduct Review Committee will be selected semi-randomly. In general the Hearing Coordinator will attempt to make a faculty panel that includes at least one faculty member from the Conservatory and one from the College of Arts and Sciences. ). If there are insufficient eligible members of the General Faculty Professional Conduct Review Committee available, the Hearing Coordinator and Title IX Coordinator will identify appropriately trained faculty alternates to serve on the review panel. The Hearing Coordinator will attempt to make sure that there is gender diversity on all panels.

#### **6. Pre-Hearing Review of Documents.**

Both parties will be afforded similar and timely access to any documents and information used at a hearing. The Reporting Party and the Responding Party will each have the opportunity to review all investigative documents, subject to the privacy limitations imposed by state and federal law, at least 10 business days prior to the hearing. The investigative documents will include the investigation report, any witness statements or interviews, statements from or interviews with both parties, and any other documentary information that will be presented to the Hearing Panel. Review of these documents will

take place at a secure and private location on campus, with access facilitated by the Hearing Coordinator or Safety and Security.

The Hearing Panel must review all pertinent information regarding the incident in question prior to the date of the Hearing Panel.

Information and/or witnesses not provided as part of the investigation may not be introduced at the Hearing Panel without permission of the Hearing Coordinator.

## **7. Relevance**

The Hearing Coordinator will review the investigative report, any witness statements and any other documentary evidence to determine whether the proffered information contained therein is relevant and material to the determination of responsibility given the nature of the allegation. In general, the Hearing Coordinator may redact information that is irrelevant, more prejudicial than probative, or immaterial. The Hearing Coordinator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

## **8. Witnesses**

The Reporting Party, Responding Party, and the Hearing Panel all have the right to present witnesses. Witnesses must have observed the conduct in question or have information relevant to the incident and cannot be called solely to speak about an individual's character. In general, neither party will be permitted to call as a witness anyone who was not interviewed by the investigator as part of the College's investigation. If either party wishes to call witnesses, whether or not they were previously interviewed as part of the College's investigation, the following must be submitted to the Hearing Coordinator via e-mail or in hardcopy format:

- The names of any witnesses that either party intends to call;
- A written statement and/or description of what each witness observed, if not already provided during investigation;
- A summary of why the witness' presence is relevant to making a decision about responsibility at the hearing; and,
- The reason why the witness was not interviewed by the investigator, if applicable.

The Hearing Coordinator will determine if any proffered witness has relevant information and if there is sufficient justification for permitting a witness who was not interviewed by the investigator. The Hearing Coordinator may also require the investigator to interview the newly proffered witness.

If witnesses are approved to be present, the Reporting Party and the Responding Party are provided with a list of witnesses and any relevant documents related to their appearance at the hearing in advance of the hearing date, with the understanding that the Reporting Party and Responding Party will have the opportunity to submit additional witness information to the Hearing Coordinator in advance of the hearing date after reviewing any additional investigative documents.

### **9. Prior Sexual History and/or Pattern Evidence**

Prior Sexual History of a Reporting Party: In general, a Reporting Party's prior sexual history, character or reputation is not relevant and will not be admitted as evidence at a hearing. Where there is a current or ongoing relationship between the Reporting Party and the Responding Party, and the Responding Party alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of this policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Reporting Party with other individuals is not relevant and will not be permitted. In addition, prior sexual history may be considered under very limited circumstances to explain injury or demonstrate motive or intent.

Pattern Evidence by a Responding Party: Where there is evidence of a pattern of conduct similar in nature by the Responding Party, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative to the panel's determination of responsibility and/or assigning of a sanction in cases where the pattern of behavior itself is what would cause the violation (i.e. in cases where one needs to prove persistent or pervasive behavior). In all other cases, behavior that would create a stand-alone violation of policy may only be used in the sanctioning phase of a hearing if the responding party was previously found responsible for violating college policy. The determination of relevance will be based on an assessment of whether the previous incident was substantially similar to the conduct cited in the report and indicates a pattern of behavior and substantial

conformity with that pattern by the Responding Party. Pattern evidence may also be relevant to prove intent, state of mind, absence of mistake or identity. Where there is a prior finding of responsibility for a similar act of sexual misconduct, the finding may not be considered in making a determination as to responsibility but will be considered in the assigning of a sanction.

The Hearing Coordinator, in consultation with the Title IX Coordinator, may choose to introduce this information, with appropriate notice to the parties. Alternatively, a party may request in writing that information under this section be admitted. A request to admit such information must be submitted to the Hearing Coordinator. The Hearing Coordinator, in consultation with the Title IX Coordinator, will assess the relevance of this information and determine if it is appropriate for inclusion at the hearing.

To aid in an advance determination of relevance of prior sexual history and/or pattern evidence, the following must be submitted before the hearing to the Hearing Coordinator via e-mail or in hardcopy format:

- A written statement and/or description of the proposed information, if not already provided during investigation; and
- A summary of why this information is relevant to making a decision of responsibility at the hearing.

If this information is approved as appropriate for presentation at the hearing, the Reporting Party and Responding Party will be provided with a brief description of the approved information before the hearing.

### **10. Request to Reschedule Hearing**

Either party can request to have a hearing rescheduled. Absent extenuating circumstances, requests to reschedule must be submitted to the Hearing Coordinator with an explanation for the request at least 3 business days prior to the hearing. The Hearing Coordinator in consultation with the Title IX Coordinator will review the request and determine whether a delay in the hearing is warranted, and will notify all parties of their decision.

### **11. Consolidation of Hearings**

At the discretion of the Hearing Coordinator, in consultation with the Title IX Coordinator, multiple reports may be consolidated against a Responding Party in one hearing, if the

evidence related to each incident would be relevant and probative in reaching a determination on the other incident. Matters may be consolidated where they involve multiple Reporting Parties, multiple Responding Parties, or related conduct that would regularly have been heard under the Code of Student Conduct.

## Hearing Procedures

The Hearing Coordinator is responsible for the administration of all procedures related to the panel hearing.

### **1. Attendance at Hearing**

If a party does not attend a hearing for any non-emergency or non-compelling reason, the hearing may be held in their absence at the discretion of the Hearing Coordinator. The College will not require a Reporting Party to participate in or attend a hearing, although the College's ability to present evidence may be limited in the instance that a Reporting Party chooses not to participate in the hearing.

If a Responding Party who is a student withdraws from the College prior to the conclusion of an investigation or formal resolution under this policy, the Responding Party's academic transcript will be marked Withdrawal Pending Disciplinary Action. If a Responding Party who is a student chooses not to participate, the College will move forward with the resolution of the report and imposition of sanction, if any, in absentia. If the report is finally resolved while the Responding Party is absent, the Responding Party's academic transcript will be marked with the final outcome in accordance with regular practice under this policy.

A Reporting Party or Responding Party may also request alternative testimony options that would not require physical proximity to the other party. Options include placing a privacy screen in the hearing room or allowing the Reporting Party or Responding Party to speak outside the physical presence of the other by using appropriate technology to facilitate participation. The Hearing Coordinator must review any proposed alternative in advance of the hearing to ensure that it is consistent with the goals of a fair and equitable process. While these options are intended to help make the Reporting Party or Responding Party more comfortable, they are not intended to work to the disadvantage of the other party.

Thus, when one party requests alternative testimony options, the other party may participate in a similar manner.

## **2. Participants in Hearing Procedures**

The Hearing Panel is a closed hearing and is not open to the public. The individuals who may appear before the Hearing Panel are: the Reporting Party; the Responding Party; any individuals serving as an approved advisor or support person; any individuals appearing as witnesses; and any relevant administrators necessary to facilitate the hearing.

## **3. Safeguarding of Privacy**

All parties involved in a hearing are required to keep the information learned in preparation for the hearing and at the hearing private. No copies of documents provided are to be made or shared with any third parties. All copies provided must be returned to the College at the conclusion of the hearing and any appeals. Any breach of this duty is subject to further disciplinary action by the College. The College expectation of privacy during the hearing process should not be understood to limit any legal rights of the parties during or after resolution. The College may not, by federal law, prohibit the Reporting Party from disclosing the final outcome of a formal process (after any appeals are concluded). All other conditions for disclosure of hearing records and outcomes are governed by FERPA and any other applicable privacy laws.

## **4. Hearing Panel Protocol**

The hearing is intended to provide a fair and ample opportunity for each party to present relevant information and witnesses. The Hearing Body will make factual findings, determine whether College policy was violated, and recommend appropriate sanctions and remedies. The hearing is not comparable to a criminal trial; it is not designed to be adversarial in nature. The Hearing Body is the mechanism by which the College assesses whether College policy has been violated, and as appropriate, takes formal disciplinary action regarding a violation of College policy.

The Hearing Panel will choose one member of the panel to serve as chair, and in cases where there is a single Hearing Administrator that person will fill this role. A hearing will be called to order by the chair. The chair will explain the hearing process and will provide an opportunity to all parties to ask procedural questions prior to initial statements and the presentation of information.

The investigator will provide a brief statement summarizing the investigation. The statement should focus on the areas of agreement and disagreement in order to assist the Hearing Body in prioritizing areas of inquiry. The Hearing Body, Reporting Party, or Responding Party may make brief inquiries of the investigator at this juncture, as there will be additional opportunity to ask questions of the investigator after the Hearing Body has heard from the Reporting Party, the Responding Party, and any witnesses.

The Reporting Party has the option to supplement the information provided to the Body with a brief statement. This is not intended to be a retelling of the event. The Hearing Body may pose questions to the Reporting Party, including questions submitted in writing to the Hearing Body by the Responding Party. The Responding Party will not be permitted to question the Reporting Party directly. In the event that the College serves as the Reporting Party, the designated institutional representative will have the same opportunity to make a statement.

After the Reporting Party is finished, the Responding Party has the option to make a brief statement. The Hearing Body may pose questions to the Responding Party, including questions submitted in writing to the Hearing Body by the Reporting Party. The Reporting Party will not be permitted to question the Responding Party directly.

The Body may hear from witnesses on behalf of the Reporting Party and the Responding Party. Each witness will be questioned by the Hearing Body, and, as appropriate, the Reporting Party and the Responding Party may submit questions in writing to be asked by the panel.

The Hearing Body, the Reporting Party, and Responding Party may then question the investigator. The investigator is not permitted to offer an opinion on the credibility of any individual or as to the ultimate issue.

At the conclusion of the presentation of all witnesses, the Reporting Party and Responding Party will have the option to address briefly any outstanding issues of fact.

## **5. Questioning of Witnesses**

It is the responsibility of the Hearing Body to assure that the information necessary to make an informed decision is presented. The Body members may play an active role in

questioning both parties and witnesses involved in the case. At times, the Body members may need to ask difficult or sensitive questions in order to understand areas of factual dispute or gain a full understanding of the context.

The Reporting and Responding parties are encouraged to prepare a written list of questions in advance. The parties may also submit questions in writing to the chair throughout the course of the hearing. The chair, in consultation with the Body, will determine the appropriateness and relevance of the questions.

Parties and other individuals who offer information at a hearing are expected to respond honestly, and to the best of their knowledge. The Hearing Body reserves the right to recall any party or witness for further questions and to seek additional information necessary to make a decision.

## **6. Deliberation**

After all of the information has been presented, all parties will be dismissed and the hearing will be formally concluded.

The Hearing Body will conduct their deliberations in private. The Body must complete their deliberations within 2 business days. The Hearing Coordinator and Title IX Coordinator can remain for deliberations, but cannot participate in the deliberations or vote.

The Hearing Body will determine a Responding Party's responsibility by a preponderance of the evidence. Under this standard, individuals are presumed not to have engaged in the conduct reported unless a preponderance of the evidence supports a finding that sexual misconduct occurred. This means that the Hearing Body will decide whether it is "more likely than not," based upon all of the relevant information, that the Responding Party is responsible for the alleged violation. The Hearing Body must reach a decision on responsibility by majority vote. The votes of individual Body members will not be shared with the parties.

If the Body finds the Responding Party responsible, the Body will then recommend appropriate sanctions to the Hearing Coordinator. The Hearing Coordinator, in consultation with the Title IX Coordinator, will review the recommendations for fairness and consistency and the designated administrator will impose an appropriate sanction.

The findings of the Hearing Body will be documented in writing by the Hearing Body chair. The findings will detail the findings of fact and the basis/rationale for the decision of the Hearing Body, making reference to the evidence that led to the finding. This report will be submitted by the Hearing Body chair to the Hearing Coordinator at the time of the decision.

## Sanctions

A Hearing Body that finds a Responding Party responsible for a violation of this policy will recommend appropriate sanctions that may include, but are not limited to, those set forth below. Sanctions may be issued individually, or a combination of sanctions may be imposed. The Reporting Party and Responding Party will each have the opportunity to present a written statement about impact and/or request sanctions to the Hearing Coordinator in advance of the hearing. The Hearing Body will review these statements only if the Responding Party has been found responsible for one or more violation.

In general:

- Any person who is determined to have committed non-consensual sexual intercourse may receive a sanction ranging from suspension to expulsion/termination. As a general expectation, suspensions should last at least until the Reporting Party has graduated (or otherwise separated) from the College.
- Any person who is determined to have committed non-consensual sexual contact or any other prohibited form of conduct may receive a sanction ranging from a warning to expulsion/termination.

The Hearing Body may deviate from the range of recommended sanctions, based upon a full consideration of the following factors:

- the impact of the conduct on the Reporting Party;
- the impact of the conduct on the community, its members, or College property;
- the nature and violence of the conduct at issue;
- prior misconduct by the Responding Party, including the Responding Party's prior discipline or criminal history, both at the College or elsewhere, if known

- whether the Responding Party has accepted responsibility for their actions;
- how the College has sanctioned similar incidents in the past, based upon information about such similar incidents that the Hearing Coordinator will provide upon request;
- maintenance of a safe and respectful environment conducive to learning;
- protection of the College community; and,
- any other mitigating, aggravating or compelling circumstances in order to reach a just and appropriate resolution in each case.

The Hearing Body may also consider educational strategies that, taking into account the impact on the Reporting Party and the safety of the community as a whole, allows a Responding Party to learn about the origins of their behavior, their responsibility for this behavior, and how they can change this behavior. Such strategies may be suggested in addition to, but not in place of, the recommended sanctions.

The Hearing Body will make a recommendation about the appropriate sanction. The Hearing Coordinator and Title IX Coordinator will review the Body's recommendations and take reasonable steps to foster consistency for similar violations and circumstances. The Hearing Coordinator or Designated Administrator will then affirm or modify the recommended sanction.

Sanctions that may be imposed under this policy include, but are not limited to, the following:

- **Warning:** Notice, in writing, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.
- **Disciplinary Probation:** A written reprimand for violating College policy. This status specifies a period of time during which the party's or organization's good standing with the College may be in jeopardy. The party is officially warned that continuation or repetition of prohibited conduct during this period may be cause for additional conduct action including probation, suspension, or expulsion from the College.

- **Training:** A requirement that the Responding Party receive specific training within a designated time period and at their own expense to prevent further misconduct or discrimination or harassment. Failure to submit documentation of completion of the training within the specified time period may lead to further disciplinary action.
- **Limits on Participation:** Exclusion from participation in privileged activities for a specified period of time. For students, privileged activities may include, but are not limited to, elected or appointed student offices, student research, athletics, some student employment, and study abroad. Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation or any other College policy violations may result in further disciplinary action.
- **Restitution:** Repayment to an affected party, including the College, for damages resulting from a violation of this policy. To enforce this sanction, the College reserves the right to withhold its transcripts and degrees or to deny a student participation in graduation ceremonies and privileged events.
- **Removal from Campus Housing:** Students may be removed from College housing and/or barred from applying for campus housing due to disciplinary violations of this policy.
- **Suspension:** Exclusion from College premises, attending classes, and other privileges or activities for a specified period of time, as set forth in the suspension notice. Notice of this action will remain in the student conduct file or employee file and will be permanently recorded on a student's academic transcript unless specified otherwise in the suspension notice.
- **Expulsion:** Permanent termination of student status and exclusion from College premises, privileges, and activities. This action will remain in the student conduct file and will be permanently recorded on the student's academic transcript.
- **Termination:** Permanent separation of the faculty or staff member from the College.
- **Withholding Degree:** The College may withhold awarding a degree otherwise earned until the completion of the process set forth in this policy, including the completion of all sanctions imposed, if any.

- **Revocation of Admission and/or Degree:** Admission to, or a degree awarded by, the College may be revoked for fraud, misrepresentation in obtaining the degree or violation of College policies, the Student Code of Conduct or for other serious violations committed by a student prior to enrollment or graduation.

Other sanctions may be imposed instead of, or in addition to, those specified here. Service, education or research projects may also be assigned. More than one of the sanctions listed above may be imposed for any single violation.

The Hearing Body may also recommend remedies for the Reporting Party and remedies for the Oberlin community. On the conclusion of the hearing, the Title IX Coordinator is responsible for reviewing, adjusting, and implementing these remedies in order to eliminate the hostile environment and prevent its recurrence.

## Outcome Letter

The outcome of the Hearing Body will be communicated to the Reporting Party and Responding Party simultaneously and in writing, usually within 4 business days from the date the hearing is concluded. The notification of each party should occur at or near the same time.

The letter to each party will include the outcome and the rationale for the outcome. It will also set forth each party's appeal rights, including the time frame for submitting an appeal. Any change in the outcome before it becomes final will also be communicated to the parties in writing.

In addition, the Responding Party will be fully informed of any sanctions.

For reports involving sexual violence, the Reporting Party will be fully informed of any sanctions. For all other reports under this policy, the Reporting Party will be informed of only those sanctions that directly relate to the Reporting Party, consistent with FERPA and other applicable law.

Sanctions imposed are implemented immediately unless the Dean of Students (or their designee) stays implementation in extraordinary circumstances, pending the outcome of

the appeal. For students, pending graduation, study abroad, internships/externships, or other events do not typically constitute extraordinary circumstances

The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The College may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is not dependent, the College will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The College also reserves the right to designate which College officials have a need to know about individual conduct reports pursuant to FERPA requirements.

## Appeals Process

Either party may appeal the final outcome in writing to their Division Head (or their designee) or for students to the Dean of Students (or their designee), who will serve as the Appeals Officer. The appeal must be filed in writing within five business days of receiving the written outcome. The appeal shall consist of a plain, concise and complete written statement outlining the grounds for appeal and all relevant information to substantiate the basis for the appeal.

The Reporting Party and/or Responding Party may appeal only the parts of final outcome directly relating to themselves. Dissatisfaction with the outcome of the hearing is not grounds for appeal. The only grounds for appeal are:

- A procedural or substantive error occurred that significantly affected the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- New evidence, unavailable during the original hearing or investigation despite the reasonable efforts of the party, that could substantially impact the original finding or sanction (a summary of this new evidence and its potential impact must be included).
- Sanctions were significantly disproportionate to the violation.

The receipt of the appeal will be acknowledged in writing (which can include email). The written appeal document will be shared with the other party, and the other party will be given the opportunity to respond in writing should they choose to do so. Any response must be submitted to the Appeals Officer within 3 business days from receipt of the appeal. The appeals documents from each party will be considered together in one appeal review process.

In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The Appeals Officer shall first consider whether the appeal is timely filed and if so, whether the appeal is properly framed based on the three grounds. If the Appeals Officer determines that the appeal does not properly fit within one of the three grounds, the appeal will be denied.

If the appeal is based on procedural or substantive error, the Appeals Officer may return the report to the original Hearing Body with instructions to reconvene to cure the error, or in rare cases where the error cannot be cured, the Appeals Officer can ask that a new hearing occur before a newly constituted Hearing Body. In the instance that a new hearing occurs, the parties would have the right to appeal that finding.

In the case of new and relevant information, the Appeals Officer can recommend that the case be returned to the original Hearing Body to assess the weight and effect of the new information and render a determination after considering the new facts. The reconsideration of the Hearing Body is final.

Appeals are not intended to be full rehearing of the report. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. This is not an opportunity for the Appeals Officer to substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions. Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where at least one of the three specified grounds for appeal is established. The Appeals Officer can affirm or alter the original findings, depending on the basis of the requested appeal.

Sanctions imposed are implemented immediately unless the appropriate Division Head (or designee) stays implementation in extraordinary circumstances, pending the outcome of the appeal. For students, pending graduation, study abroad, internships/externships, or other events do not typically constitute extraordinary circumstances. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the party to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.

The Appeals Officer will render a written decision on the appeal simultaneously to the Reporting Party and Responding Party within 15 business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

## **Integrity of Proceedings**

These procedures are entirely administrative in nature and are not considered legal proceedings. Neither party may audio or video record the proceedings, nor are attorneys allowed to participate except as outlined in the section on “Advisors, Support Persons, and Attorneys.” The Hearing Coordinator will audio tape the proceedings for College records.

At the Hearing Coordinator’s discretion, anyone disrupting the hearing may be removed.

## **Records**

All records related to complaints filed with the Office of Equity Diversity and Inclusion will be maintained in accordance with the records retention policy found on the website here: [go.oberlin.edu/SMPolicy](http://go.oberlin.edu/SMPolicy)

# **10. Primary Prevention, Education, and Training**

## **Role and Scope**

Oberlin College recognizes that the most effective way to achieve a campus free of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence is to equip all community members with the skills

to recognize and prevent sexual misconduct. The College wants to ensure that all members of the community understand and participate in our shared standards of equity, inclusion, civility, and respect.

In order to achieve these goals, Oberlin College offers regular primary prevention programs and ongoing education and awareness programs for all students and employees. Employees who play a key role in implementing the policy, including those faculty and staff who are likely to receive reports of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, will receive in-depth annual training to ensure a timely, sensitive, respectful, and effective intuitional response. The College is committed to ensuring that all employees understand how to respond to reports of sexual misconduct.

In particular:

All new and transfer students and all new employees will receive education in primary prevention and awareness of sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence. These training programs will include:

- A statement that the institution prohibits sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence
- The definition of prohibited conduct, including sexual and/or gender-based harassment, discrimination and violence, including sexual violence, stalking, and intimate partner violence, under College policy and state law
- The definition of consent in reference to sexual activity under College policy and state law
- A description of safe and positive options for bystander intervention
- Information on risk reduction
- Information on how to recognize warning signs of abusive behavior in order to mitigate the likelihood of perpetration, victimization, or bystander inaction
- Options and resources for reporting sexual and/or gender-based harassment,

discrimination and violence, including sexual violence, stalking, and intimate partner violence

All continuing students, staff, and faculty will receive regular opportunities to review this information, become acquainted with new policies and best practices, and practice key skills. All employees of the college are expected to complete training on a bi-annual basis.

The Title IX Coordinator is responsible for oversight, coordination, and assessment of prevention and training programs on campus, in collaboration with the appropriate departments and personnel. The Title IX Team should review campus education and prevention programs on an annual basis to ensure quality and address staffing and resource needs. Training and education may be provided by appropriately trained campus personnel and/or external partners.

## **11. Policy Review**

The Title IX Team is authorized to make minor changes to this policy, such as updating contact information and professional roles or major changes required to align policy language with any new legal requirements. Such changes should be reported to the General Faculty at least once a year. Major changes to the policy beyond those required by law should be submitted to the General Faculty for approval, or, as appropriate, to the General Faculty Council acting as the executive body of the General Faculty. In addition, the Title IX Team will review the policy annually, based on experiences of people involved with the policy, to determine if major changes are required. Any community member with concerns about the policy should contact the Title IX Coordinator to discuss their concerns.

## Appendix 1

### Key Policy Implementers

#### **Title IX Coordinator**

Rebecca Mosely  
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#### **Director of Safety and Security**

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#### **Student Advocate**

Melissa Counts  
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[College\\_advocate@nordcenter.org](mailto:College_advocate@nordcenter.org)

#### **Hearing Coordinator (for Reports Involving Students)**

Thom Julian  
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#### **Divisional Deans**

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#### **Members of the General Faculty Professional Conduct Review Committee**

See College website for the most current membership