

# Students' Rights and Responsibilities (cont.)

investigation committee shall advise each person involved in the investigation that he or she is to keep the matter confidential.

The investigation committee is free to conduct any task related to the investigation as a group or to delegate tasks to individual members. Thus, all references below to the investigation committee denote the individual or group conducting any particular task.

- i. The investigation committee shall interview the complainant and the person against whom the complaint has been filed (the respondent).
- ii. The investigation committee shall provide both the complainant and the respondent with the opportunity to identify relevant witnesses and evidence. The investigation committee shall interview any such witnesses and review any such evidence.
- iii. The investigation committee shall consult with appropriate offices depending on the constituencies represented in the complaint. If the complaint involves a student, the investigation committee shall consult with the Office of the Dean of Students. If the complaint involves a faculty member, the investigation committee shall consult with the appropriate divisional dean's office. If the complaint involves a staff member, the investigation committee shall consult with the Manager of Employee Relations.
- iv. Based on the information presented, the investigation committee shall identify any additional relevant sources of information. The investigation committee shall examine these sources of information.
- v. Within 45 days of receipt of a complaint, the investigation committee shall issue a report and recommendation containing a) a determination whether the preponderance of the evidence supports the allegation(s), with a description of the investigation as necessary; b) a recommendation for appropriate action. This report and recommendation shall be provided to the President or his or her designee, to the Chair of the Equity and Diversity Committee, and to the Special Assistant for Equity Concerns.

If the report states a determination that the preponderance of the evidence supports the allegation(s), the President or his or her designee shall render a decision on appropriate action, including but not limited to disciplinary action, after discussions with the Office of the Dean of Students, the appropriate divisional dean's office, and/or the Manager of Employee Relations, considering the constituency of the respondent, within 10 days of receipt of the report. This decision may consider the total institutional record of the respondent. Written notification of the decision of the President or designee shall issue to the complainant, the respondent, and the Chair of the Equity and Diversity Committee. The notification shall include a description of any steps the college shall take to prevent the recurrence

of any discrimination or harassment and to correct discriminatory effects on the complainant and others, if appropriate.

The respondent or complainant may present written arguments to the President or his or her designee appealing the decision of the President or designee within five days of the issuance of the decision. The President or his or her designee will have five days from receipt of such written arguments to act.

## **d. Review of the Policy.**

At least every second year, the Equity and Diversity Committee shall undertake a review of the policy, the implementation of the policy, and education about the policy in consultation with the administrators designated in the Policy, and, if necessary, will recommend revisions to the Vice President, General Counsel and Secretary. In addition, the Title IX Coordinator, Section 504/ADA Coordinator, and the Chair of the Equity and Diversity shall conduct regular meetings to coordinate complaint processing and to develop and implement a protocol for maintaining and reporting data on complaint resolutions.

## **J. Sexual Offense Policy and Procedural Guidelines**

### **1. INTRODUCTION**

Oberlin College will not tolerate sexual offense in the work or academic setting. Offenders will be subject to appropriate college adjudication processes and disciplinary action. Oberlin College will provide appropriate support to community members who are involved in sexual offense reports.

Allegations of discrimination or harassment based on sex, marital status, sexual orientation, and/or gender identity and expression shall be investigated and resolved pursuant to the standards and time frames provided in the Sexual Offense Policy and Procedural Guidelines at [new.oberlin.edu/office/equity-concerns/](http://new.oberlin.edu/office/equity-concerns/).

The college has designated a Title IX Coordinator to coordinate the college's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972, including the investigation of allegations of discrimination or harassment based on sex as well as such allegations of discrimination based on marital status, sexual orientation, and/or gender identity and expression.

### **2. SEXUAL RELATIONS BETWEEN STUDENTS, FACULTY, AND STAFF**

Oberlin College seeks to provide and maintain the best possible learning and working environment. For this reason it is prohibited for faculty members to engage in any sexual relationships with students to whom they are not married or in formal domestic partnerships, even when both parties believe that the relationship is consensual. This prohibition applies even

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if the student is not enrolled in the faculty member's class. Also prohibited, with the same exceptions, are sexual relationships between staff and students. Faculty and staff who violate this prohibition are subject to appropriate college adjudication processes and disciplinary action.

All sexual interaction between students must be consensual. The term "consent" cannot be defined with enough precision to make a definition meaningful for any and/or all situations. Consent must be looked at on a case-by-case basis, by examining the facts of the particular matter. In some cases, however, consent may never be given, such as when an individual is asleep or unconscious, or when an individual's judgment is substantially impaired by drugs or alcohol. Students should take advantage of educational and training opportunities offered at the college to clarify the meaning and nature of sexual consent.

The spouse and partner guidelines for faculty (See *Faculty Guide*, Appendix A, reproduced below as Appendix 6) apply to all nonstudent employees, married or not, who enter into sexual relationships. Because of the dynamics of power and authority between supervisors and workers, Oberlin College discourages sexual relationships between supervisors and subordinate employees.

### 3. DEFINITION OF SEXUAL OFFENSE

Sexual offense is behavior, which calls attention to gender, sexuality, gender identity or sexual orientation of persons in a manner, which prevents or impairs an individual's full enjoyment of educational or occupational benefits or opportunities. Enjoyment of educational or occupational benefits is to be interpreted broadly. Consequently, a sexual offense may occur on or off campus as long as it affects the campus community.

What is often at issue is not sexual attention per se but intimidation, coercion or abuse of power. Such behavior may be especially harmful in situations where the imposition of unwanted sexual attention is accompanied by the promise of academic or employment rewards or the threat of reprisal. Sexual offense includes sexual harassment.

Because Oberlin College values and protects academic freedom, because vigorous and open discussion of controversial issues may cause discomfort, and because vital teaching and learning may themselves be the occasion for students and professors to face difficult or awkward or painful matters, it is important for all to realize that this policy on sexual offense is not intended to restrict serious discussion of controversial issues in academic situations.

No matter how carefully worded a definition of sexual offense might be, unforeseen situations may arise which cannot easily be included in any definition. Thus, a

sexual offense is defined to include, but not be limited to, the following:

#### a. *Sexual Harassment*

(1) Sexual harassment means unwelcome sexual conduct which has the purpose or effect of unreasonably interfering with an individual's performance or which creates an environment that a reasonable person would find hostile, offensive, or intimidating.

(2) Sexual harassment includes behavior that is inappropriate to the academic or employment setting—for example, unwelcome comments, gestures, jokes, pictures, objects or touching—which may reasonably be perceived as a sexual overture or sexual denigration. This includes making known to other people a person's sexual orientation without his/her consent, and with the intent to denigrate that person sexually.

(3) Sexual harassment includes a request for sexual favors when submission to or rejection of such a request might reasonably be viewed as a basis for evaluative decisions affecting an individual's career or educational experience.

#### b. *Sexual Assault*

Sexual assault is coercion or attempted coercion with or without the use of physical force for the purpose of sexual relations; or sexual contact or attempted contact to which any party involved does not give full and free consent.

#### c. *Sexual Battery*

Sexual battery occurs when a person engages in sexual intercourse, fellatio or cunnilingus with another through the use of coercion or when the victim's ability to appraise a situation or control his or her own conduct is substantially impaired. Sexual battery is a felony crime in the state of Ohio.

#### d. *Rape*

Rape occurs when a person engages in sexual intercourse, fellatio, cunnilingus, or penetration of anal or vaginal areas with any object, with another person through the use of force, threat of force, or by forcefully, deceitfully, or surreptitiously administering intoxicants. Rape is a felony crime in the state of Ohio.

### 4. POLICY ADMINISTRATION

#### a. *Administration*

In order to address the campus-wide needs for effective implementation of the following procedures and to provide ongoing education for the campus community, the President will appoint an Administrator, who will report to the President, and a Sexual Offense Policy Review Committee (SOPRC) as outlined in the Appendices to this policy.

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## **b. Education**

It is essential that all employees and students of Oberlin College are knowledgeable about what behaviors constitute sexual offense and understand their responsibilities with respect to this policy. The Administrator will coordinate education and training on issues pertaining to sexual offense for the entire college community, including educating various groups such as SOPRC, members of the formal panels and the faculty Professional Conduct Review Committee, campus security officers, residence hall staff, academic departments, union representatives, and all supervisors. New employees will receive an orientation to the provisions of this policy. Ongoing education will be provided for the college community, including students, faculty, and staff members. The complete sexual offense policy will be published in the *Student Regulations, Policies, and Procedures*, the *Faculty Guide*, and all other student and employee handbooks. The names of the sexual offense policy information contact persons will be distributed annually to members of the campus community and will also be available on the Office of Equity Concerns website.

## **5. PROCEDURES**

In this policy statement, a “respondent” is the person against whom a charge of sexual offense is brought; a “complainant” is the person who brings a charge of sexual offense.

### **a. Duty to Report**

Any member of the campus community who believe(s) that his or her educational or work experience has been subjected to sexual harassment, sexual assault, sexual battery or rape should contact the Administrator or a policy information person member of SOPRC (see Appendix 2). Any other member of the campus community who is aware of the occurrence of sexual harassment, sexual assault, sexual battery or rape must contact the Administrator. (If the Administrator is either the respondent or the complainant, the cochair of SOPRC will be contacted and will assume the responsibilities of the Administrator).

### **b. Confidentiality**

Complaints of sexual offense should be dealt with according to established procedures, which treat all information as confidential. Only those individuals who possess a legitimate need to know should be told of the details of allegations. Parties involved should not engage in public discussion of their cases. All alleged felonies must, by Ohio law, be reported to law enforcement.

### **c. Time Frame**

Under normal circumstances, the time frames referred to in this policy should be followed. Any change in these time frames must be authorized by

the Administrator or his/her designee. These time frames do not include days on which the college is not in session. The college is in session from the first day of enrollment until the last day of the spring term, except for official college holidays, spring and fall breaks, shut down and winter term.

### **d. Initial Investigation**

(1) When the Administrator receives a sexual offense complaint, the Administrator will interview the complaining individual. The Administrator will also advise the respondent of the complaint, and interview the respondent as to his/her position with respect to the allegation(s). The Administrator will also interview relevant witnesses and collect appropriate demonstrative evidence during his/her investigation. The Administrator will advise each person whom she/he has interviewed that he or she is to keep the matter confidential.

The Administrator may (must in cases of an alleged felony) advise law enforcement of the complaint (normally through the Office of Safety and Security). Allegations of sexual offense may be investigated even if no formal complaint is filed or the complaining individual refuses to cooperate in an investigation.

(2) The Administrator is authorized to attempt to mediate or otherwise informally resolve the complaint, except when the complaint alleges sexual assault, sexual battery and/or rape. Agreements made by the parties during this conflict resolution process are binding, and a person's violation of any agreement may result in discipline or other appropriate action. The Administrator may also decide that the seriousness of an alleged offense makes it necessary to file a formal complaint on behalf of the college even though a complainant may prefer to pursue informal procedures.

### **e. Formal Panel**

(1) If the Administrator finds after investigation, that a sexual offense might have occurred and if the Administrator has been unable to resolve the matter, the Administrator shall draft a charge based on the original complaint, which will be forwarded to the formal panel. The written charge should normally contain the names of the complainant and respondent and, in general, it should contain the date or dates, time or times, and nature of the alleged sexual offense(s), the place where the alleged sexual offense occurred and a general outline of the facts and nature of the alleged offense(s). The formal panel may consider and decide matters that in and of themselves are not violations of the sexual offense policy when such matters are relevant to violations.

(2) At any time prior to the completion of the formal panel process, the President may suspend the

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respondent or assign a respondent to other duties. If the respondent is a faculty member, the President should make the determination concerning suspension with the concurrence of the appropriate divisional council and the General Faculty Council. Compensation will continue during the period of such precompletion-of-formal-procedure suspension.

(3) After a decision to press a written charge is made by the Administrator, the Administrator normally has five working days to prepare and deliver the written charge to the respondent by certified mail (or, alternatively, by signed-for, hand delivery), and to notify the General Counsel/Secretary of the College that a charge has been filed. The Administrator will also provide the respondent with a copy of the *Sexual Offense Policy and Procedural Guidelines* at the same time the written charge is delivered. The respondent normally has three working days following receipt of the written charge to make contact with the Administrator to discuss the charge and the procedures. Within seven working days following such contact with the Administrator, the respondent may file a written response. If the respondent does not contact the Administrator and/or provides no written response to the charge within these time limits, the case will still go forward.

(4) At the request of either the complainant or the respondent, or when the Administrator deems it appropriate, the Administrator or his/her designee will inform both parties that contact between the parties must be limited only to that which is necessary and in the best interests of both parties and the institution. The Administrator or his/her designee shall make such determination after discussion with appropriate division heads and/or the Manager of Employee Relations in Human Resources. Violation of such limitations may be taken into account by the formal panel, and may result in discipline.

(5) Normally within 10 working days following delivery of the written charges, the General Counsel/Secretary of the college will convene the formal panel (see Appendix 3). Except where specified in this policy, the General Counsel/Secretary shall not take part in any aspect of the formal panel process. The President shall select an elected member of the Professional Conduct Review Committee to serve as the nonvoting chair each time the formal panel is convened during that academic year.

(6) All parties have the right to choose an advisor from the Oberlin College community to assist and support them through the formal panel process. Each party may also bring a nonparticipating

support person to the hearing. No parties will be permitted to have an attorney act as their representative in a hearing. Neither the advisor nor the support person may serve as a witness at the hearing, and they will not be permitted to question witnesses or address the formal panel.

(7) The hearing will be closed to the public. No attorney representing any party may attend the hearing.

(8) Every member of the college community has an obligation to cooperate with the formal panel and to answer truthfully all questions asked. Failure to cooperate with the process or to answer questions truthfully may result in disciplinary action.

(9) The formal panel will hear the witnesses and evidence of the complainant, the respondent, and the Administrator. Either party may elect not to provide testimony in the presence of the other party, and the witnesses speaking on his/her behalf. Both parties shall be informed of this option by the Administrator prior to the hearing, and shall make their choice on this option known to the Administrator and, through the Administrator, to the formal panel before the commencement of any part of the formal hearing. Otherwise, each will provide testimony in the presence of all. If either party elects not to provide testimony in the presence of the complainant or respondent, as the case may be, separate rooms will be provided for the declining party. Communication will proceed via speakerphone.

(10) The complainant, respondent, and Administrator have the right to present relevant witnesses and to provide other forms of pertinent information with respect to the case. Witnesses are not required to be members of the Oberlin College community.

(11) The formal panel has the right to question any and all witnesses who appear before it. The formal panel has the right to request witnesses to appear other than those called by the parties and/or the Administrator. The complainant, respondent and the Administrator have the right to ask questions of the witnesses. If this privilege is abused or if other extenuating circumstances exist, the formal panel may prohibit such examination altogether or may require the abusing party to submit questions in writing from which the formal panel may choose to ask the witness. The complainant, Administrator, respondent and formal panel will disclose their witnesses sufficiently in advance so that all parties have an opportunity to prepare for the witnesses.

(12) The Administrator or his/her designee shall make a record of the entire hearing, normally by means of audiotape. This recording will become

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part of the confidential record (see Appendix 4). The Administrator is the only party permitted to tape the proceedings.

(13) The conduct of formal panel hearings shall normally proceed as specified in Appendix 4, although the formal panel is free to deviate from its procedures when it deems appropriate.

(14) The formal panel shall be responsible for determining whether the preponderance of the evidence supports the allegations against the alleged respondent, and if so, whether such allegations constitute a sexual offense as defined in this policy. In order to find that a respondent has committed a sexual offense in violation of this policy, the decision of the five voting formal panel members must be at least 3-2. The Administrator or his/her designee will be responsible for informing the formal panel if the respondent is a repeat offender.

(15) Following the receipt of evidence, the formal panel shall provide a report and a recommendation to the President. The report shall indicate whether the formal panel has concluded from its investigation that a sexual offense has occurred. The necessary hearings will normally be conducted and a report and recommendations for appropriate action be presented to the President within 20 days after the formal panel has convened.

(16) Promptly after the formal panel has made its recommendation, the chair will collect all notes and related documents accumulated by the formal panel during the proceedings and forward the material to the Administrator for safekeeping.

(17) The President or a designee appointed by him or her will review the report, normally within five days of its receipt. The President or designee is free to consider the total institution record of the offender. The President or designee will render his or her decision after discussions with appropriate governing bodies and will provide written notification (which will include the formal panel report) to the complainant, the respondent, and the Administrator. In the event that the respondent is a faculty member, the appropriate governing bodies are the appropriate divisional council and the General Faculty Council. In cases where the respondent is a member of a collective bargaining unit, the President or a designee shall render a decision in consultation with the Manager of Employee Relations in Human Resources. When the respondent is a member of the administrative and professional staff, the President or his/her designee shall consult with the appropriate division head. In cases involving a recommendation for serious sanction (suspension or initiation of dismissal proceedings), the procedures described in

the College Bylaws and, in the case of faculty, the appropriate AAUP guidelines will be followed.

(18) Appeal. The respondent, complainant or Administrator may present written arguments to the President or his or her designee as to why the formal panel's findings and recommendations or the President's decision were inappropriate within 10 days after the issuance of the decision by the President or his or her designee. The President or his or her designee will have five days from receipt of such written arguments to act.

(19) In the event that the respondent is the President, the recommendations of the formal panel will be reported to the Chair of the Board of Trustees.

## **e. Protection from Retaliation**

If an individual experiences retaliation for making a complaint (when doing so in good faith), for cooperating during an investigation, or for appearing as a witness in a case, that person shall inform the Administrator. The Administrator will conduct an initial investigation and, if it appears likely that such retaliation has occurred, the Administrator will prepare a written charge and forward it to the Secretary of the College and serve a copy of the charge on the alleged wrongdoer. The Secretary of the College has the authority to call a new formal panel to hear the charge or to refer the charge to an existing formal panel.

## Appendix 1: The Administrator

### A. DUTIES

(1) The Sexual Offense Policy Administrator, who is appointed by the President, will be responsible for campuswide education regarding the sexual offense policy, training Sexual Offense Policy Review Committee (SOPRC) members, members of the community who sit on formal panels, and the members of the community who serve as policy information persons. The Administrator is also responsible for initiating and coordinating the college's educational programs regarding sexual offense issues and policies for students, faculty, and staff.

(2) The Administrator will be assisted by a Sexual Offense Policy Review Committee (SOPRC), whose duties are outlined in Appendix 2. The SOPRC will give advice regarding ongoing policy issues and consult with the Administrator regarding the implementation of the sexual offense policy.

(3) The Administrator will serve as the permanent cochair of SOPRC; the other cochair will be a tenured teaching member of the General Faculty.

(4) The Administrator will be responsible for informal conflict resolution procedures and for coordinating the formal procedures.

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(5) The Administrator will be responsible when necessary for advising appropriate faculty, staff and the Academic Standing Committee on behalf of a student or students who have experienced some form of sexual offense or been involved in a sexual offense proceeding. In cases involving the formal hearings panel, students may need to request extensions or incompletes in their coursework. The Administrator will help students in completing the process of requesting incompletes. The Administrator shall notify students of and options for and available assistance in changing academic and living situations after an alleged sexual assault incident, if so requested by the student and if such changes are reasonably available.

## B. RECORD KEEPING

### (1) *Statistical*

The Administrator should keep statistical records of certain crimes of a sexual nature which have been reported to campus security, the Oberlin police department, or to any college official with significant responsibility for student welfare and campus activity. Crimes of a sexual nature for which statistical records need to be kept are rape, statutory rape, sexual assault and forcible fondling.

### (2) *Records of matters investigated by the Administrator*

Records, including the names of both parties, will be kept of all cases investigated by the Administrator.

### (3) *Records of Formal Procedures*

Records of all formal panel hearings will be kept in confidence by the Administrator and all members of the Panel. Normally, they will be divulged only to the President for his or her review or, if requested, to college counsel, or if subpoenaed by a court of law. When necessary to determine disciplinary action, the record before the formal panel may be disclosed to the appropriate divisional faculty council and to the General Faculty Council.

### (4) *Duties of the Administrator Regarding Record Keeping*

The Administrator will be responsible for keeping records on the actions of SOPRC, a record of all incidents, and confidential files on complaints of sexual offense. Normally, the cochairs of SOPRC will have access to the confidential files on sexual offense complaints or charges, which will be kept securely in the administrator's office.

Records of complaints will show the complaint and the disposition of the complaint, as well as the names of the complainant and respondent.

### (5) *Special Access to Records and Information*

In cases which invoke the use of procedures found in Oberlin College collective bargaining agreements, the Manager of Employee Relations in Human Resources or his/her designee shall be granted access to the

applicable confidential files. In cases in which charges are filed concurrently or subsequent to the case with outside government agencies, the Affirmative Action Officer and/or Title IX Compliance Officer shall be granted access to the applicable confidential files.

College counsel shall have access to the applicable confidential files in all cases involving litigation or threat of litigation.

### (6) *Publication and Maintenance of Records*

The Administrator, in conjunction with the Office of Safety and Security, shall publish the statistical records as required by the Clery Act. Further, the Administrator shall maintain records relating to the Sexual Offense Policy proceedings there under, as required by FERPA, other applicable laws, and the college's record retention policy.

## Appendix 2: The Sexual Offense Policy Review Committee (SOPRC)

### A. COMPOSITION

(1) The Sexual Offense Policy Review Committee (SOPRC) will be composed of two representatives from each of the following constituencies: Students, Faculty, Administrative and Professional Staff, and at least one member each from the OCOPE and UAW bargaining units.

SOPRC members should include representation by people of color and lesbian/gay/bisexual/transsexual people, if possible. Appointments to the committee will be made by the President after consultation with current SOPRC members, the Administrator, and the executive body of the applicable employee group. In appointing student members, the President shall consult with the Student Senate. Each committee member will serve a two-year term, with terms among members of the same constituency overlapping.

(2) Five members of SOPRC will be appointed to serve as first-contact advocates for the campus community. (See section 2 below: Policy Information Resources). The entire committee will be responsible for update and review of the sexual offense policy. The Administrator will keep an updated list of resources on and off campus (e.g., support groups, counseling services, community programs) and provide Policy Information Persons with the information.

(3) Cochairs of SOPRC will be a tenured teaching member of the General Faculty and the Administrator.

(4) SOPRC members will normally be appointed by the end of April of each school year. Training for SOPRC will be coordinated by the Administrator.

(5) At least every second year, SOPRC will undertake a review of the *Sexual Offense Policy and Procedural*

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*Guidelines* and, if necessary, recommend revisions to the General Faculty.

## B. POLICY INFORMATION RESOURCES

- (1) **Role of Policy Information Persons:** A Policy Information Person is the first person who should be called with questions about Oberlin's sexual offense policy, either for making informational inquiries or for reporting incidents of sexual offense. This resource is available to both complainants and respondents. The Administrator is responsible for educating policy information persons about the nature of sexual offense and Oberlin's sexual offense policy. Policy information persons' names, campus addresses, and campus phone numbers will be published in flyers sent to the entire Oberlin College community by the end of each April for the following academic year. During the summer, policy information persons who are on campus will continue to be available to the college community for cases that may arise while the college is not in session.
- (2) There will be policy information persons from each campus constituency (i.e., faculty, students, administrative and professional staff, OCOPE and the UAW). These policy information persons will have institutional support for their work: hourly employees may need release time and/or paid overtime. The college will fund policy information persons' attendance at relevant workshops or conferences once a year. Hourly employees will be given release time with pay for time spent attending such workshops or conferences. If appropriate, the deans of the college or the conservatory or the appropriate division head may grant faculty and administrative and professional staff members release time from their departmental duties. When necessary, students may be excused from classes without penalty.
- (3) The Administrator will conduct an extensive training session for the policy information persons each year. The Administrator will schedule additional meetings with the campus policy information persons as necessary to review any changes in policy or procedures.
- (4) A policy information person is not a counselor, but is available to provide information and to refer individuals to the proper resources if counseling is indicated. A policy information person will describe options and procedures so that if further action is warranted and/or desired, the individual requesting information will be able to make appropriate decisions about a course of action.
- (5) All contacts with policy information persons will be recorded and forwarded to the Administrator or his/her designee. All further actions will be determined by the Administrator or his/her designee in consultation with the complaining individual.
- (6) A policy information person may serve as an advisor during the formal panel process, but may not be called

by any party as a witness or participate in the hearing in any way other than to provide support to a complainant or respondent.

## Appendix 3: The Formal Panel

- A.** The five-member formal panel will be convened by the General Counsel/Secretary of the College. The President shall select an elected member of the Professional Conduct Review Committee to serve as the chair each time the formal panel is convened.
- B.** Respondent is a Faculty Member: Augmenting the formal panel. In cases in which the respondent is a faculty member and the complainant is not, the formal panel will be composed of five faculty members drawn by lot from the membership of the Professional Conduct Review Committee, plus a sixth nonfaculty representative who will be chosen by lot from the membership of either the Administrative and Professional Staff Grievance Committee, the Judicial Board (as expanded; see below, paragraph c); the UAW Grievance Committee, or the OCOPE Grievance Committee, as appropriate. This nonfaculty representative will have full voice during the hearing of the case, and will present a written recommendation to the panel, but the faculty members alone will determine responsibility.
- C.** Respondent is not a faculty member: For cases in which the accused is not a faculty member, the pool for the formal panel will be drawn from the Professional Conduct Review Committee, the Administrative and Professional Staff Grievance Committee, the Judicial Board, the UAW Grievance Committee, and the OCOPE Grievance Committee. In order to provide for diversity in the pool of students who might serve on formal panels, the Administrator can in consultation with appropriate student organizations, each April appoint five students to serve along with the members of the Judicial Board as the pool for formal panels. Panels will be drawn by lot from this pool with a formal panel being composed of three members of the respondent's employee/student group and two members of the employee/student group of the complainant.
- D.** The Administrator will coordinate education and training concerning sexual offense and Oberlin's policy for each campus group represented in the formal panel pool. All members of the Professional Conduct Review Committee, the Administrative and Professional Staff Grievance Committee, the Judicial Board (as expanded above), and the campus unions' grievance committees will receive training, as coordinated by the Administrator.
- E.** Any member of the formal panel should disqualify him or herself from a case if, after learning of the identities of the parties involved, he or she feels that he or she cannot participate objectively.
- F.** All matters of interpretation regarding proceedings of the formal panel shall be determined by the panel.

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## Appendix 4: Conduct of Formal Panel Hearings

The following shall be the order of procedure for a formal hearing:

- A. Opening statement of complainant or administrator, if acting as complainant) and presentation of written charge.
- B. Opening statement of respondent.
- C. Witnesses and evidence submitted by the complainant or administrator, if acting as complainant.
- D. Witnesses and evidence submitted by the respondent.
- E. Witnesses and evidence requested by the formal panel.
- F. Rebuttal witnesses and evidence submitted by the complainant or administrator, if acting as complainant.
- G. Rebuttal witnesses and evidence submitted by the respondent.
- H. Summary of evidence (closing statement) submitted by complainant or administrator, if acting as complainant.
- I. Summary of evidence (closing statement) submitted by respondent.

## Appendix 5: Appropriate Disciplinary Guidelines

Sexual offenses may demand serious sanctions. The formal panel will judge each case on its merits and recommend disciplinary action according to the seriousness of the offense and, when appropriate, on the record of the accused.

1. If a person is found responsible for sexual harassment, the recommended disciplinary action may include, but not be limited to, admonition, probation, suspension, or dismissal, depending on the severity of that offense. Offenses involving abuse of power, as opposed to misconduct between equals, and especially repeated abuse of power (i.e., professor-student; supervisor-employee, tenured-untentured faculty) are always severe and may result in dismissal.
2. If a person is found responsible for sexual assault (coercion with or without physical force) or attempted sexual assault, the recommended disciplinary action may be dismissal, termination, or suspension/expulsion, according to the procedures for students and each employee group.
3. If a person is found responsible for sexual battery or rape, the recommended disciplinary action will be dismissal.
4. Disciplinary action shall normally include participation in an education program designated by the Administrator. Additional institutional violations of any nature while one is on probation may result in suspension or dismissal.

## Appendix 6: Guidelines on Employment of Spouses, Partners, and Immediate Family Members

Subject to the guidelines listed below, Oberlin College recognizes no restrictions on the full-time and permanent

employment of spouses, partners or immediate family members on the teaching faculty and other college employment.

Guidelines:

1. All candidates for job openings will be judged competitively on the basis of professional qualifications. Spouses, partners, or immediate family members will be considered equally with other candidates.
2. No faculty or staff member will participate in any part of the evaluation process of a spouse, partner, or member of his or her immediate family.

## Appendix 7: Oberlin College Discrimination and Harassment Policy Statement

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, 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.

Oberlin College deplors incidents of discrimination or harassment wherever they may occur—for example between students, between employees, and between students and employees. The college is especially mindful of its obligation to seek learning opportunities for its students. Discrimination or harassment, whether overt or covert, may directly or indirectly have a negative impact on students' abilities to learn. Discrimination not only may have undesirable educational and psychological consequences; it is also against the law. Perpetrators of such behavior can be subject to college adjudication processes, including disciplinary action up to and including termination, suspension, and expulsion as appropriate. The community is further advised that recourse can be sought through the Equal Employment Opportunity Commission (EEOC), the Office of Civil Rights (OCR), the Ohio Commission on Civil Rights, or the courts. This policy does not limit the rights of an individual to seek remedies available under state or federal law.

## K. Noise

College housing units are students' homes and must inevitably accommodate a wide range of lifestyles, freedoms, and values. A continuing subject of concern in Oberlin's college housing is noise, as must be the case in any community where people live in extremely close quarters with their peers or community members and