

# **Title IX Investigation Procedures**

## **Introduction**

The following procedures have been established to receive, investigate, and resolve complaints of discrimination on the basis of sex/gender. These procedures are designed to provide a supportive process for individuals who report discrimination and to ensure a fair process for individuals who are accused of discriminatory conduct. Internal investigation of allegations of institutional discriminatory treatment or systemic discriminatory practices is intended to ensure that Stark State meets its commitment to an open and inclusive educational and employment environment. These procedures also describe the College's efforts to conduct timely, thorough, and fair investigation as required by law.

Sexual misconduct, including sexual violence, has been recognized as a form of discrimination in violation of Title IX. For emphasis, sexual misconduct may be referred to specifically herein, and in addition to "discrimination" which refers generically and inclusively to all forms of discrimination on the basis of sex.

The Title IX Coordinator is responsible for ensuring that all Title IX complaints are investigated and resolved appropriately. Based on the circumstances of the complaint, individuals who are appropriately trained in Title IX investigation may be delegated authority to investigate in partnership with the Title IX Coordinator.

Any employee, student, campus visitor or person participating in a College activity, whether on or off-campus, who believes he or she has experienced or witnessed discrimination and/or harassment is encouraged to report the incident(s) promptly. While all individuals are encouraged to report, certain individuals are required to do so in accordance with applicable laws and policies. Prompt reporting of complaints is vital to the College's ability to resolve the matter.

The College reserves the right to investigate circumstances that may involve discrimination and/or harassment where no complaint has been filed. In situations where a complainant is reluctant to proceed, the complainant will be notified in advance when such action is necessary. In such situations, the College may elect to investigate and, if warranted, impose disciplinary sanctions pursuant to established College policies and procedures.

In the event that circumstances involve potential criminal conduct, the Title IX Coordinator will notify the College's Security Department to ensure appropriate contact has been made with law enforcement. If a criminal investigation and/or a criminal proceeding are commenced, the College will continue to conduct its own Title IX investigation and will still take immediate and prompt steps that it deems necessary to protect the College community.

The College also reserves the right to take provisional actions departing from these Procedures, including but not limited to any and all necessary and immediate steps to protect a complainant or the College community. Such actions may include taking interim steps before the determination of the final outcome of an investigation; however, the respondent will be given the notice and opportunity to respond as specified in the herein Procedures.

## **General Provisions**

To protect both the complainant and the respondent, Title IX complaints will be treated with the greatest degree of confidentiality possible. Complainants and respondents are advised, however, that confidentiality can only be respected insofar as it does not interfere with the College's obligation to investigate allegations of misconduct that require it to take corrective action and comply with obligations under the Ohio Public Records law.

If necessary, the Title IX Coordinator/Deputy Title IX Coordinator will work with the appropriate departments to assist the complainant in making reasonable efforts to avoid contact with the respondent(s) by adjusting the workplace or academic arrangements. Such interim measures will be finally decided and imposed by the administrator with direct supervisory responsibility over the party; i.e. if an interim measure is to be taken with respect to a student, the applicable Dean will make a final determination as to the measure and be responsible for implementing it; if the interim measure is to be taken with respect to an employee, the Director of Human Resources will make a final determination as to the measure and be responsible for implementing it; to the extent that an interim measure is to be taken with respect to a vendor, the appropriate Vice President will make a final determination as to the measure and be responsible for implementing it.

To the extent that agreement cannot be reached among administrators, or interim measures will be taken against a combination of students, employees and vendors, the Provost shall have final determination as to the interim measures regarding students. The applicable Executive Council member will have final determination as to interim measures regarding employees. The Title IX Coordinator/Deputy Title IX Coordinator will inform all parties of the interim measures to be taken.

The complainant or respondent may have an advisor or support person present at any point in these Procedures to provide advice or support directly to the complainant or respondent. An advisor or support person may not however, stand in place of either the complainant or the respondent, or otherwise participate in the investigation process.

All employees, students and College agents or representatives have an obligation to cooperate with these Procedures. If a complaint is dismissed, written notice of such dismissal shall be provided to the complainant(s) and to the respondent(s). In the event that a respondent does not cooperate by failing to furnish information requested by the investigator or to make himself or herself available for interview by the investigator, the investigator shall conclude the investigation based upon information available at the time.

When extenuating circumstances warrant, the Title IX Coordinator/Deputy Title IX Coordinator has the authority to extend any of the time limits contained in these Procedures except those relating to the filing of complaints or the filing of appeals.

In the event that a complaint concerns the conduct of an employee or student-worker from the Human Resources Office or an individual that reports directly to the Title IX Coordinator, the Provost/Vice President of Business and Finance shall designate an individual who shall be responsible for implementing the responsibilities pursuant to these Procedures. In the event that a complaint concerns the conduct of the Title IX Coordinator/Deputy Title IX Coordinator, the Provost and/or Vice President of Business and Finance shall designate an individual who shall be responsible for implementing the responsibilities of the Title IX Coordinator/Deputy Title IX Coordinator pursuant to these Procedures. In the event that a complaint is filed that concerns the conduct of the President or a member of the Board of Trustees, the Ohio Attorney General's

Office will be consulted regarding the assignment of an appropriate neutral individual to be responsible for the implementation of these procedures

### **Initiating a Title IX Complaint**

Complaints can be filed by contacting the Title IX Coordinator or by submitting a completed Complaint Form to the Title IX Coordinator/Deputy Title IX Coordinator. Complaints of discrimination and/or harassment should be filed within 180 calendar days of notice of the event(s) that gave rise to the complaint. When the discrimination and/or harassment is of an ongoing nature, a complaint must be filed within 180 days from the most recent incident. Notwithstanding the foregoing, a complaint relating to alleged discrimination and/or harassment occurring during a complainant's employment by the College must be properly filed within 10 days following termination or separation of the complainant's employment with the College.

Anonymous complaints will be accepted; however, the College's ability to obtain additional information may be compromised and the ability to investigate or resolve anonymous complaints may be limited.

Filing a Title IX Complaint does not preclude an individual from filing a complaint with an external agency nor does it extend time limits with those agencies. Assistance with information regarding filing charges with an outside agency may be obtained from the Title IX page located on the Stark State College Website or from the Title IX Coordinator's Office Room S103.

### **Responsibilities for Resolving Complaints**

#### **Duty to Act/Duty to Report**

Any executive or administrative officers, dean, chair/director; faculty or administrative supervisor; faculty member; or human resources representative who becomes aware of information that would lead a reasonable person to believe that discrimination and/or harassment has occurred will notify the Title IX Coordinator within five (5) working days of becoming aware of the information.

In addition to the duty to report sexual misconduct to the Title IX Coordinator as identified above, in some circumstances there is a duty to report allegations of criminal conduct to law enforcement authorities. Ohio law (Ohio Revised Code § 2921.22) requires every person who knows that a felony has been or is being committed, to report it to law enforcement authorities. It is a criminal offense to knowingly fail to make the report.

If you suspect or have knowledge of criminal activity occurring notify Stark State Security immediately at 330.704.2582 or 911 for assistance. Incidents that occur off campus should be reported to local law enforcement. Upon returning to the campus, the incident should be reported to Campus Security and/or the Title IX Coordinator.

#### **Employee Responsibilities**

- Assess the situation and attempt timely resolution of issues by notifying and collaborating with the Title IX Coordinator.
- Address all concerns promptly and thoroughly.
- Respect the confidentiality and reputation of all parties to the extent possible.
- Refer individuals to available Colleges resources if needed.
- If the situation cannot be successfully resolved, the complaint must be referred within five (5) working days to the Title IX Coordinator for investigation.

## **Title IX Coordinator/Deputy Title IX Coordinator Responsibilities**

- Facilitate informal resolution when appropriate.
- Conduct all investigations following these guidelines.
- Maintain data established by policy regarding complaints of discrimination and/or harassment.
- Collaborate with department/unit to reduce/eliminate instances of discrimination and/or harassment.
- Communicate investigation findings to the appropriate department/unit or administrator, complainant(s) and respondent(s).
- Provide victim support and resources, including interim measures.
- Monitor action steps and/or corrective measures to ensure behavioral change and compliance.
- Within three (3) working days following receipt of the Complaint Form/documentation, the Title IX Coordinator/Deputy Title IX Coordinator will assign an investigator to investigate the complaint.

## **Investigating Title IX Complaints**

### **Investigator Duties**

Investigations will be a collaborative effort between the department/unit and the Title IX Coordinator/Deputy Title IX Coordinator whenever possible. Individuals will be informed of the investigation and its progress on a timely basis.

The investigator will discuss the following with the complainant and respondent:

- The behaviors and any related issues that gave rise to the complaint.
- The policy under which the complaint is brought and these investigation Procedures. Copies of both will be provided.
- The manner and frequency with which they will be updated about the status of the investigation.
- The importance of confidentiality during the investigation. To the extent possible, the College will make every reasonable effort to conduct all proceedings in a manner that will protect the confidentiality of all parties. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.
- The prohibition of retaliation by College policy.
- Upon conclusion of the investigation, records may be made available to the extent mandated by law.

The investigator will ensure that the Complaint Form is completed. A written complaint form is not necessary if sufficient information has been provided to the investigator to allow an investigation to proceed.

The investigator, in collaboration with the appropriate department/unit representative, will determine if special provisions are necessary to ensure that no discrimination/harassment occurs against the complainant while the investigation is pending.

### **Investigation Process**

The purpose of the investigation is to evaluate the allegations of discrimination and/or harassment, formulate a response that addresses the facts as they are determined.

A false allegation occurs when someone knowingly, or with reckless disregard for the truth, make a false report of discrimination and/or harassment or of retaliation, or gives false information during an investigation, proceeding or hearing. A person acts with reckless disregard for the truth when the person knows that the report or information given could have serious consequences, but makes no effort to determine whether it is true, or is indifferent to whether it is true. It is not a violation of policy to make a report in good faith about suspected discrimination and/or harassment or suspected retaliation that is based on a reasonable belief that the conduct has both occurred and is discrimination and/or harassment, even if, upon investigation, the report is not substantiated.

At the conclusion of the investigation, the investigator will inform the Title IX Coordinator and/or the Deputy Title IX Coordinator regarding the findings of the investigation and the Title IX Coordinator and/or the Deputy Title IX Coordinator will inform complainant, respondent and the appropriate department/unit or administrator of the outcome and rationale.

If discrimination, harassment, false allegation, inappropriate behavior, or other policy violation occurred, the Title IX Coordinator/Title IX Deputy Coordinator will work with the appropriate department to take necessary action steps to correct the behavior. The necessary action steps could include disciplinary action, action to remedy adverse effect from the violation, or action to prevent the recurrence of a violation.

### **Appeal**

A complainant or a respondent may appeal the outcome of the investigation for any of the following reasons: the investigator was biased or had a conflict of interest; there was procedural error in the investigation; there is previously unavailable relevant evidence that could significantly impact the outcome or the recommended sanction is substantially disproportionate towards the respondent.

An appeal must be submitted to the Title IX Coordinator within five (5) working days of the issuance date of the investigator's report to the applicable parties.

Within ten (10) working days from the issuance of the report, the Title IX Coordinator will convene a Committee to consider the appeal. The Committee will consist of the Provost and Chief Academic Officer, a member of faculty and a member of staff. Appeals should be considered by the committee on the following basis:

1. Whether these procedures were properly followed;
2. Whether there is previously unavailable evidence;
3. Whether the facts were interpreted appropriately; or
4. Whether the facts supported a finding of violation(s) of the Discrimination/Harassment policy.

Both complainant and respondent will be notified of the meeting scheduled by the Title IX Coordinator/Deputy Title IX Coordinator. Upon request, the complainant and respondent will be afforded an opportunity to meet directly with the Committee.

Within five (5) working days of the meeting, the Committee will make a determination to approve, deny or modify the investigator's finding and/or recommendations. The complainant, respondent, Title IX Coordinator and the appropriate Vice President will be notified of the determination and rationale. The findings at this time are deemed final.

## **Corrective Action Implementation**

When discrimination and/or harassment is found, steps will be taken to ensure that the behavior is stopped promptly, the effects, if any, are remedied and that reoccurrence is prevented, whenever possible. Appropriate corrective action may range from counseling, written reprimands, suspensions, or other action up to and including termination or expulsion, in accordance with established College policy and procedures. Other appropriate remedies may include providing an escort, ensuring that the complainant and respondent do not attend the same class or work together, providing counseling services, providing additional academic support services, and training/education initiatives.

The Title IX Coordinator/Deputy Title IX Coordinator will work with the appropriate division to monitor corrective action to ensure compliance. The Title IX Coordinator/Deputy Title IX Coordinator is responsible for ensuring that the necessary action steps are completed.

Corrective action may be imposed on any individual who has a duty to act in any situation of potential discrimination and/or harassment and who fails to respond in a manner consistent with College policy and procedures.

## **Confidentiality**

To the extent possible, all information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except to the extent it is necessary to disclose particulars in the course of the investigation or when compelled to do so by law. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process.

## **Retaliation**

Retaliation against any person for reporting or complaining of discrimination and/or harassment, assisting or participating in the investigation of a complaint of discrimination and/or harassment, or enforcing College policies with respect to discrimination and/or harassment is strictly prohibited. Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation or harassment against an individual or group for exercising rights or performing duties under the law can subject the offender to sanctions independent of the merits of the allegation. Allegations of retaliation should be directed to the Title IX Coordinator/Deputy Title IX Coordinator.

## **Record Keeping**

The Title IX Coordinator and the Deputy Title IX Coordinator will maintain a written record and an electronic copy (Title IX shared folder) of all witness interviews, evidence gathered, the outcome of the investigation, and any other appropriate documents. Investigation records will not be maintained in personnel files or student files unless they are part of a formal corrective action. If corrective action is issued, a letter documenting the action should be included in the discrimination/harassment investigation file. Investigation records will be maintained in accordance with College record retention schedules. When a complaint is filed outside the College, information gathered in the course of the internal investigation may be disclosed to the investigating agency.