

Title IX 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.

Reporting Responsibilities

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.

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 supportive measures 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.

Definitions

Sexual harassment – conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the College conditioning the provision of aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
3. "Sexual assault," "dating violence," "domestic violence," or "stalking as those terms are defined under other federal laws called the Clery Act and the Violence Against Women Act.

Complainant - Any person who is reported to have experienced conduct prohibited by this policy, regardless of whether that individual makes a report or participates in the review of that report by the College.

Respondent - Any member of the College community that is alleged to have engaged in conduct prohibited by this policy.

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.

Supportive Measures

When the Title IX Coordinator has actual knowledge of a report of sexual misconduct, a prompt response will be made by contacting each complainant and informing the complainant of available supportive measures and describing the process for filing a formal complaint. The Title IX Coordinator will coordinate with faculty, staff, department chairs, supervisors, or an administrator to make supportive measures available to the complainant with or without the filing of a formal complaint. If the decision is made not to provide supportive measures, the Title IX Coordinator will document the reasons why.

Supportive measures will be designed for the purpose of restoring and preserving equal access to education and the workplace environment. Both the complainant and the respondent will be offered a customized plan to meet their needs by the Title IX Coordinator. These measures may include things like moving a complainant or respondent's seat in a class; a no-contact order; course-related adjustments; revised class schedules or clinical sites; a single point person for scheduling; deadline extensions; free, on site counseling; leaves of absence; and campus escort services and other security services.

The Title IX Coordinator may sign a formal complaint with 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.

Advisors

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. If a complainant or respondent is not able to have an advisor, the college will appoint one. 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.

Emergency Removal

The college may remove a respondent from an education program or activity on an emergency basis if, after the college conducts an individualized safety and risk analysis, it determines that the respondent is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. The college will provide the respondent with written notice of the decision and an opportunity to challenge the decision immediately after removal.

All employees, students and College agents or representatives have an obligation to cooperate with these Procedures.

When extenuating circumstances warrant, the 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, 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 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 in person, by mail, by telephone or by electronic mail twenty-four hours a day to the Title IX Coordinator.

- Diana Tsenekos, Coordinator, Emergency Planning, Security, & Title IX
6200 Frank Ave NW North Canton, OH 44720
330-494-6170 Ext. 4424, dtsenekos@starkstate.edu

Initial assessment

The Title IX Coordinator reviews all reports of sexual misconduct under this policy for an initial assessment of the reported information. The available resolution options will be guided by the availability of information or evidence suggesting that a policy violation may have occurred; the College's obligation to investigate and provide appropriate remedies to eliminate, prevent, and address the effects of the prohibited conduct; and the availability or desire of the complainant to participate in an investigation or other resolution.

Upon completion of an initial assessment, the Title IX Coordinator or designee will determine the available options for resolution, provide supportive measures and will communicate options to the parties. Informal resolution may be utilized if the complainant files a formal complaint and chooses this process.

Informal resolution

Informal resolution may be appropriate for responding to anonymous reports and/or third-party reports when the College is unable to conduct further investigation. A formal complaint must be filed in order for the informal resolution process to occur. Except where an employee is alleged to have engaged in sexual misconduct as to a student, the parties may mutually agree to informally resolve a formal complaint at any time before a Determination Letter is issued.

If both parties agree to go through the resolution process, the College shall issue a notice to all parties describing the informal resolution process, the allegations, and requirements of the process.

In all cases, the College will inform the complainant of the right to end the informal resolution process at any time. Any records generated will be maintained.

If the complainant chooses to end the informal resolution process, the College will inform the complainant of options, including the option to begin the investigative resolution process.

Investigative resolution

The Title IX Coordinator may resolve a report of sexual misconduct through investigative resolution when the alleged misconduct, if true, would be prohibited under applicable College policy. In instances when informal resolution is inappropriate, when any party requests, or when the College requires formal investigation, the College will consider the concerns and rights of all parties and provide a prompt, fair, impartial, and equitable process.

Parties have an equitable right to:

- Receive notice before participating in an interview with sufficient time to prepare for meaningful participation;
- A process with reasonably prompt timeframes, with extensions for good cause;
- Present relevant information to the investigator, including evidence and witnesses;
- Receive timely and equal access to any relevant information or documentation gathered during the investigation;
- Have an advisor of their choosing, including an attorney, advocate, or other support person who is not a potential witness in the investigation or could otherwise compromise the investigation, who provides support throughout the formal resolution process, including being present for any meetings or hearings; and
- Investigators who are adequately trained to resolve cases of alleged sexual misconduct, are familiar with applicable policies and procedures, and who do not have a conflict of interest or bias for or against either party.

An advisor or other support person may only provide counsel or support for a party and not actively participate in the process, unless clarification is needed as determined by the College. The advisor may not engage in any conduct that would constitute harassment or retaliation against any person who has participated in an investigation and may be denied further participation if such conduct occurs.

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.

The Title IX Coordinator may sign a formal complaint with 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.

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 S104.

Responsibilities for Resolving Complaints

Duty to Act/Duty to Report

Any executive or administrative officers, dean, chair/director; faculty or administrative supervisor; faculty member; staff 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-Main Campus, 330.312.2526-SSC Akron, or 330.704.2522-Downtown Canton 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.

Title IX Coordinator/Deputy Title IX Coordinator Responsibilities

- Coordinates the College's efforts to comply with Title IX regulations
- Discuss the availability of supportive measures with or without the filing of a formal complaint
- Notify both parties the ability to engage in an informal resolution process.
- Explain to the complainant the process for filing a formal complaint
- Facilitate informal resolution when appropriate.
- 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 supportive 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 will assign an investigator to investigate the complaint.

Investigator Duties

The investigator shall provide the complainant and respondent:

- Written notice that the College has begun an investigation. The written notice will contain:
 - a. The allegations and the facts that would constitute sexual harassment
 - b. The presumption of innocence
 - c. A statement that the parties are entitled to an adviser of their choice
 - d. A statement that the parties can request to inspect and review certain evidence
 - e. Information regarding code of conduct and false statements

- The policy under which the complaint is brought and these investigation Procedures.
- 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.

Decision Maker Responsibilities

- Objectively evaluate the relevant evidence and reach conclusions about whether the respondent is responsible for the alleged sexual harassment.
- Use independent judgement
- Must be free of conflicts of interest or bias for or against complaints or respondents, and receive special training about how to be impartial and how to decide what evidence is relevant.
- Weigh the relevant evidence and decide whether it meets the standard of clear and convincing evidence.
- Provide a written report within 15 working days that includes:
 - The policies that were alleged to be violated
 - A description of the procedural steps that were taken
 - A finding of facts section
 - A section on their conclusions
 - A statement of rationale
 - Any disciplinary sanctions imposed and remedies determined
 - Information regarding the ability to appeal the initial determination regarding responsibility and permissible reasons for appeal

Investigating Title IX Complaints

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.

Dismissals of Complaints

The College may dismiss a complaint if:

- The Complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or some of its allegations;
- If the respondent is no longer enrolled or employed by the College; or
- If circumstances prevent the school from gathering evidence sufficient to reach a determination about the allegations.

A written notice will be sent to the complainant and the respondent if the complaint is dismissed detailing the reason for dismissal. Dismissal of a formal complaint does not preclude action under any other college policy. If other conduct policy violation occurred, the Title IX Coordinator may work with the Judicial Affairs Office 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. The investigation will be conducted within sixty (60) working days. Dismissal decisions have the right of appeal.

Hearing

The decision maker will receive the investigation report five (5) working days in advance of the hearing. The decision maker will convene with the investigator to ask any questions regarding the report. Hearings will be held electronically so each party is in separate rooms, with technology enabling everyone to see or hear each other. The parties' advisors must be allowed to cross-examine other parties and witnesses. No party can ever be allowed to personally question or cross-examine anyone. Cross-examination simply means that a party's advisor asks questions that might challenge the other party's denials, or allegations. Cross-examination questions must be relevant and the decision maker must decide if a question is relevant before the party or witness has to answer it.

The College must provide a party with an advisor of its choosing, free of charge, solely for the purpose of conducting cross-examination on that party's behalf. An advisor need not be a lawyer. Each party has the right to participate or not participate in the Title IX hearing process. If a party or witness chooses not to appear at the live hearing, or not to answer cross-examination questions, the decision-maker excludes that party's or witness's statements and evaluates any evidence that does not involve those statements. The decision maker must never make inferences about the determination regarding responsibility based on the fact that the party or witness didn't come to a hearing or submit to cross examination. The College must create an audio or audiovisual recording, or a transcript of any live hearings, and make it available to the parties for inspection and review.

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. A procedural irregularity affected the outcome of the matter.;
2. Whether there is previously unavailable evidence at the time of determination on responsibility or dismissal;
3. A conflict of interest on part of a Title IX Coordinator, an investigator who compiled evidence, or a decision-maker, and the conflict of interest affected the outcome.

Both complainant and respondent: will be notified in writing of the appeal by the Title IX Coordinator/Deputy Title IX Coordinator. Both parties have equal opportunity to submit a written statement supporting or challenging the outcome within five (5) working days. After considering the parties' written statements, the Provost and Chief Academic Officer will issue a written decision and send it to the parties simultaneously.

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 will work with the appropriate division to monitor corrective action to ensure compliance. The 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.

Record Keeping

The Title IX Coordinator will maintain for seven (7) years the following documentation:

- records of the College's investigation
- records of any appeal and the materials associated with an appeal
- records of any informational resolution process
- all materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution. These materials must also be posted on the College's website;
- records of the supportive measures that were taken in response to the report or complaint of sexual harassment