

PROHIBITION ON DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT, AND RETALIATION

Washington State Community College is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination. Such an environment is necessary to a healthy learning, working, and living atmosphere because discrimination and harassment undermine human dignity and the positive connection among all people at the College.

Consistent with state and federal law, and College procedures and guidelines adopted by the College's President, the College prohibits acts of discrimination, harassment, sexual misconduct, stalking, and retaliation based upon race, color, religion, national origin, creed, service in the uniformed service (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation.

Furthermore, consistent with state and federal law, and College procedures and guideline adopted by the College's President, reasonable accommodation will be provided to persons with disabilities.

The Board directs the College's President to develop procedures and guidelines (applicable to Faculty, Staff, and Students) appropriate for implementation of this policy. The President shall also ensure compliance with this policy and its implementing procedures in all actions.

GRIEVANCE PROCEDURE

General

These procedures should be followed by students or employees if they believe they have been the victim of discrimination, harassment, sexual misconduct, or retaliation. Any student or employee has the right to present a matter of concern without it impacting her/his standing as a student or employee. These procedures do not overlap the academic appeals process. The College will deal with all complaints as quickly as the circumstances permit. This procedure applies to:

1. An alleged act of discrimination, harassment, sexual misconduct, or retaliation committed by a student against an employee;
2. An alleged act of discrimination, harassment, sexual misconduct, or retaliation committed by an employee against a student;
3. An alleged act of discrimination, harassment, sexual misconduct, or retaliation committed by a student against another student that is expressly or by implication a violation of the student code of conduct;

4. An alleged act of discrimination, harassment, sexual misconduct, or retaliation committed by an employee against another employee.

This policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. “Academic Freedom” is defined as an individual’s right to engage in intellectual debate, research, speech, or written or electronic correspondence, on and off campus, without fear of censorship, retaliation, or sanction. Academic freedom encompasses both the individual’s and college’s right to maintain academic standards and gives faculty members substantial latitude in deciding how to teach the courses to which they are assigned; encourage intellectual integrity; sustain pedagogical approaches consistent with the discipline taught; and evaluate student work. Academic freedom includes the right for one individual to challenge the views of another individual.

Academic Freedom does not include expression that substantially impairs the rights of others or the imposition of political, religious, or philosophical beliefs on individuals of the college community. Academic Freedom does not provide protection of faculty who demonstrate professional ignorance, incompetence, or dishonesty with regard to their assigned discipline or fields of expertise, or who engage in arbitrary or capricious evaluation of students.

Academic Freedom does not include verbal harassment of or threats directed toward any member of the college community; breach of peace on college property or at any college-sponsored function in a manner that disturbs the privacy of other individuals and/or the instructional program; violation of college regulations or policies, and breach of any federal, state, or local criminal law either on campus or at any college-sponsored activity.

Responsibilities: The Title IX Coordinator

Washington State Community College designates and authorizes an employee to coordinate its efforts to comply with its Title IX responsibilities. This employee is referred to as the Title IX Coordinator. The Coordinator reports directly to the President of Washington State Community College.

The College notifies students and employees as well as applicants for admission and employment, of the name, title, office address, email address, and telephone number of the employee designated as the Title IX Coordinator. The College displays on their website the required contact information for the Title IX Coordinator.

Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual harassment), in person, by mail, by telephone or by email, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Reports may be made at any time including non-business hours.

The Title IX Coordinator can be reached by stopping by the campus Human Resources Office, by phone at 740-374-8716, or by email at hr@wscc.edu. Additionally, anonymous reports can be made by complainants and/or third parties by using the online Maxient reporting form located on the MyWSCC portal.

Individuals experiencing sexual harassment also always have the right to make a complaint/file a formal grievance with local law enforcement and/or government authorities if criminal justice action is desired.

Organization:	Marietta Police Department
Address:	301 W. Putnam Street Marietta, Ohio 45750
Emergency Calls:	740-373-4141
Non-Emergency Calls:	740-376-2007

Organization:	Office for Civil Rights (OCR)
Address:	600 Superior Avenue East, Suite 750 Cleveland, OH 44114
Customer Service Hotline:	800-421-3481
Facsimile:	202-453-6012
TDD:	877-521-2172
Email:	OCR@ed.gov
Web:	http://www.ed.gov/ocr

In the event that an incident involves alleged sexual misconduct by the Title IX Coordinator, reports should be made directly to the President of WSCC at 740-374-8716 ext. 1101.

COMPLAINT PROCEDURE

Reporting

When any employee (faculty, staff, and administrator) has actual knowledge, meaning notice of sexual harassment or allegations of sexual harassment, notice is to be given to the Title IX Coordinator or any official of the school who has authority to institute corrective measures on behalf of the school.

In order for an individual to make informed choices with reporting, it is important to be aware of reporting options. The following describes the two reporting options at WSCC:

1. Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- a. Off-campus individuals (non-WSCC Employees)

- b. Licensed professional counselors
- c. Local rape crisis counselors
- d. Domestic violence resources,
- e. Local or state assistance agencies,
- f. Clergy/Chaplains

All of the above employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Supportive measures are available through the College even without a formal report.

2. Formal Reporting

All WSCC employees have a duty to report. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, or events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator. Remedial actions may result without formal College action.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sexual harassment of which they become aware, is a violation of College policy and can be subject to disciplinary action for failure to comply with College policies.

Please note that notice (i.e. reporting) to a College employee does not constitute notice/actual knowledge to the College. Actual knowledge means notice of sex-based discrimination, sexual harassment, or sexual misconduct, or allegations of the same to the College’s Title IX Coordinator who has authority to institute corrective measures on behalf of the College. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. The actual knowledge standard is not met when the only official of the College with actual knowledge is the respondent. The mere ability or obligation to report sex-based discrimination, sexual harassment, or sexual misconduct, or to inform a student about how to report the same, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the College.

Jurisdiction and Response

The College will respond when sexual harassment occurs in the College's education program or activity, against a person in the United States. Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by WSCC. The following explains, among other things, when this policy applies.

1. This policy will apply to conduct that occurs on WSCC premises or WSCC property, at any location of WSCC sponsored activities, and in off-campus buildings occupied by students or staff by virtue of their association with a group/organization given formal registration by WSCC. Including, but not limited to, activities such as college teams traveling to events off campus; Student Senate and recognized clubs/organizations; any student or college sponsored group engaging in an event or activity off campus; off campus internships or community service.
2. Each student will be responsible for his or her conduct from the time he or she applies for admission until the actual awarding of a degree, including the academic year, during breaks and between academic terms, before classes begin and after classes end, during periods between terms of actual enrollment, and including conduct whether or not discovered until after a degree is awarded. The policy will apply to a student's conduct even if the student withdraws from school while a matter is pending.
3. Each staff member will be responsible for his or her conduct from the time he or she begins employment at WSCC until the actual date of employment termination. This time frame includes the academic year, during breaks and between academic terms, before classes begin and after classes end. The policy will apply to a staff member's conduct even if s/he terminates from employment while a matter is pending.
4. This policy applies to guests of community members, whose staff or student hosts may be held accountable for the misconduct of their guests. This policy also applies to all contractors carrying out business with the college.
5. Student organization and its officers may be held collectively or individually responsible when violations of this policy by those associated with the group or organization have received the tacit or overt consent or encouragement of the leaders, officers, or spokespersons. While student organizations not registered by WSCC are exempt from this policy, student members of such organizations may be held accountable for their behavior under this policy. When considering allegations involving collective responsibility, WSCC may make individual findings with respect to the involvement of each student.

6. This policy includes behavior conducted online, by students or staff, such as sexual harassment delivered by e-mail. Blogs, web pages, social networking sites and other modes of electronic communication are in the public sphere, are not private, and can subject a student or staff member to allegations of sexual misconduct. WSCC does not seek out this information, but may take action if and when such information is brought to the attention of WSCC officials.

COMPLAINT RESOLUTION

Mandatory Response Obligation

The College will respond promptly to a Title IX sexual harassment complaint or allegation by:

1. Contacting the complainant and respondent confidentially to discuss the availability of supportive measures. (With or without the filing of a formal complaint)
2. Following WSCC's Grievance Procedure for formal complaints before the imposition of any disciplinary sanctions or other actions, that are not supportive measures, against a respondent.
3. Investigating all formal complaints of sexual harassment filed by a complainant or signed by the Title IX Coordinator.

The Complainant's wishes, with respect to whether the college investigates, will be respected unless the Title IX Coordinator determines that signing a formal complaint, to initiate an investigation over the wishes of the complainant, is not clearly unreasonable in light of the known circumstances.

If the allegations in the formal complaint do not meet the definition of sexual harassment, or did not occur in the school's education program or activity against a person in the United States, the college will dismiss the allegations *for purposes of Title IX* but may still address the allegations under the College's Code of Conduct policy.

Emergency Removal

The College may remove a respondent from the College's education program or activity on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of a Policy Violation justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

DEFINITIONS PURSUANT TO THIS POLICY:

1. **Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment. (Parents and legal guardians may act on behalf of an under-aged individual but they do not become complainants.)
2. **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
3. **Formal Complaint:** A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.
 - a. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.
 - b. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic email by using the contact information that WSCC has listed and publicly available for the Title IX Coordinator.
 - c. The phrase “document filed by a complainant” means a document or electronic submission (such as by email or through an online portal provided for this purpose by the school) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint signature.
 - d. Whereas the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or a party during the grievance process, and will comply with requirements to be free from conflicts and bias.
4. **Supportive Measures:** For a student, supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a complaint or where no complaint has been filed. Such measures are designed to restore or preserve equal access to the College’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. In addition, the College may temporarily reassign or place on administrative leave an employee respondent.
5. **Discriminatory Conduct**

- a. **Discrimination** is conduct that is based upon an individual's race, color, religion, sex, gender, gender identity or expression, national origin (ancestry), military status (past, present or future), disability, age (40 years or older), status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, genetic information, or sexual orientation that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a College education program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.
 - b. **Harassment** is unwelcome conduct based upon an individual's race, color, religion, sex, gender, gender identity or expression, national origin (ancestry), military status (past, present or future), disability, age (40 years or older), status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, genetic information, or sexual orientation determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity, or employment at the College.
 - c. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the College conditioning the provision of an aid, benefit, or service of the College, or terms and conditions of employment at 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 College's education program or activity, or employment at the College.
6. **Sexual Misconduct:** includes sexual assault, dating violence, domestic violence, and stalking.
- a. **Sexual Assault** means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual assault includes, but is not limited to:
 - i. Involvement in any sexual contact with a person when the person is unable to consent.
 - ii. Intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch another person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast).
 - iii. Sexual intercourse without consent, including acts commonly referred to as "rape."

- b. **Dating Violence** means violence committed by a person -
 - i. Who is or has been in a social relationship of a romantic or intimate nature with the victim, and
 - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of the relationship; and the frequency of interaction between the persons involved in the relationship.
 - c. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotion distress.
 - d. **Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Ohio, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Ohio.
7. **Retaliation:** occurs when a person intimidates, threatens, coerces, or discriminates against another individual for the purpose of interfering with any right or privilege secured by Title IX or Title VII, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX or Title VII. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.
8. **Consent:** is informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used there is no consent. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. There is no consent when there is force, expressed or implied, or use of duress or deception upon the person. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing future consent. Whether an individual has taken advantage of a position of influence over the person may be a factor in determining consent.

9. **Education Program or Activity:** includes locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the harassment, discrimination, sexual misconduct, and/or retaliation occurs, and also includes any building owned or controlled by a student organization that is officially recognized by College.

SANCTIONS

Consequences for violating this policy will depend upon the facts and circumstances of each particular situation. Sanctions and Corrective Action could include: a requirement not to repeat or continue the discriminatory, harassing, or retaliatory conduct, a reprimand, a no-contact order, denial of a merit pay increase, reassignment, suspension or termination.

The severity of sanctions or corrective action will depend on the frequency and severity of the offense and any history of past discriminatory, harassing or retaliatory conduct. A finding of discrimination, harassment, sexual misconduct, and/or retaliation may be cause for disciplinary action, up to and including the discharge of employees and the expulsion of students, in accordance with applicable College procedures.

The College may also take appropriate action if it does not find discrimination, harassment, sexual misconduct, or retaliation, but

- A. the College found that the respondent or complainant engaged in disruptive behavior or
- B. the respondent or complainant violated other College policies or codes of conduct.

NOTICE

Upon receipt of a complaint, the College will provide the following written notice to the parties who are known:

1. Notice of the College's formal and informal resolution processes, and
2. Notice of the allegations of a Policy Violation, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.

Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting a Policy Violation, and the date and location of the alleged incident, if known.

The written notice will include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the formal resolution process. The written notice will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and

review evidence. The written notice will inform the parties of any provision in the College's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the resolution process. The written notice will also include a statement explaining the circumstances under which pursuing the informal resolution process precludes the parties from resuming a formal complaint arising from the same allegations. Also, the notice will explain to the parties any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

If, in the course of an investigation, the College decides to investigate allegations about the complainant or respondent that are not included in the notice initially provided pursuant to this section, the College will provide notice of the additional allegations to the parties whose identities are known.

RESOLUTION

If a complainant chooses to file a complaint, there are two avenues for resolution of an alleged Policy Violation: formal and informal resolution. Throughout the resolution process, the College

1. Requires an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provides that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;
2. Applies a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Discrimination process; and
3. Does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

A. Informal Resolution

- i. If the complainant, the respondent, and the Title IX Coordinator all voluntarily and in writing agree that an informal resolution should be pursued, the Title IX Coordinator (or her/his designee) shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. However, the informal resolution process cannot be used to resolve allegations that an employee sexually harassed a student. Under the informal resolution process the Title IX Coordinator shall be required only to conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the College and the community. Typically, an informal investigation will be completed within twenty (20) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

- ii. A complainant or respondent always has the option to request a formal investigation. The Title IX Coordinator also always has the discretion to initiate a formal investigation. If at any point during the informal resolution process, the complainant, the respondent, or the Title IX Coordinator wishes to cease the informal resolution process and to proceed through the formal resolution, the formal resolution process outlined below will be invoked.
- iii. The informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the College to stop, remedy and prevent the alleged Policy Violations. (Informal actions might include, but are not limited to: providing training to a work unit; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination, or hostile environment harassment; or having a confidential conversation with a supervisor or instructor).
- iv. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of complaints. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a complaint is filed.

B. Formal Resolution

- i. Step 1: The Title IX Coordinator provides the written notice described in section (I) above to the complainant and respondent. The Title IX Coordinator also considers whether emergency removal or supportive measures or involvement of other College offices is appropriate. The Title IX Coordinator determines whether the College has jurisdiction to investigate the matter. The College and the Title IX Coordinator only have jurisdiction to investigate complaints alleging a Policy Violation. In addition, if the conduct alleged in the complaint would not constitute sexual harassment even if proved, did not occur in the College's education program or activity, or did not occur against a person in the United States, then the College must dismiss the complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of the College's policies and/or codes of conduct. And, the Title IX Coordinator may dismiss the complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the complaint or any allegations therein; the respondent is no longer enrolled or employed by the College; or specific circumstances prevent the College from gathering evidence

sufficient to reach a determination as to the complaint or allegations therein.

1. Option 1: If the Title IX Coordinator determines that there is no jurisdiction, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties and offer to assist the complainant and the respondent, as appropriate, in finding appropriate campus and off- campus resources for addressing the issue of concern. Either party may appeal the Title IX Coordinator's determination that there is no jurisdiction. In order to appeal, the party must follow the appeal process set forth below.
 2. Option 2: If the Title IX Coordinator determines that there is jurisdiction, the Title IX Coordinator will proceed to Step 2. Before proceeding to Step 2, the Title IX Coordinator may consolidate complaints as to allegations of a Policy Violation against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of a Policy Violation arise out of the same facts or circumstances. Where the formal resolution process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.
- ii. Step 2: The Title IX Coordinator conducts or oversees the conducting of a fair and impartial investigation of the alleged Policy Violation and then proceeds to Step 3. Typically, an investigation will be completed within twenty (20) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

Only a trained investigator will conduct an investigation. When investigating a complaint and throughout the formal resolution process, the Title IX Coordinator must— (i) Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties provided that the College cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains that party's voluntary, written consent to do so for the formal resolution process under this section (if a party is not an "eligible student," as defined in 34 C.F.R.

§99.3, then the College must obtain the voluntary, written consent of a “parent,” as defined in 34 C.F.R. §99.3); (ii) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; (iii) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence; (iv) Provide the parties with the same opportunities to have others present during any formal resolution proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or formal resolution proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; (v) Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate; and (vi) Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the investigator must send to each party and the party’s advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The College will make all such evidence subject to the parties’ inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

- iii. Step 3: The Title IX Coordinator/investigator creates an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (if a hearing is required under this section or otherwise provided) or other time of determination regarding responsibility, send to each party and the party’s advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

The Title IX Coordinator schedules the complaint for a hearing before the Discrimination Grievance Committee. The Title IX Coordinator will notify, in writing, the complainant and the respondent of the time and place of the hearing before the Discrimination Grievance Committee. The hearing will normally be scheduled within thirty (30) days of issuance of the investigative report. This

timeline might be extended during periods between academic semesters when a quorum of the Committee cannot be convened. If such an extension causes a significant delay, the Title IX Coordinator will consider supportive measures, as described above, to continue to protect the parties during the delay.

HEARING before the Discrimination Grievance Committee

1. Composition of the Committee - The committee shall have five (5) regular members including the Chair. Of the five regular members, one shall be a student, one shall be a member of the faculty, one shall be a member of the non-academic staff, one shall be a member of the manager's advisory council and one shall be representatives of the administration.
2. Selection of Members - Each of the groups listed will appoint one (1) member and designate one (1) alternate member: Faculty Caucus; Staff Caucus; Manager's Advisory Council; President's Staff; and Student Government.
3. Appointment of Chair – A majority of the Committee members shall select the Chair.
4. Term of Appointment
 - a. To assure cumulative experience and development of expertise as well as continuity and uniformity of decisions, the terms of regular members will be of extended duration. The student shall be appointed for two (2) years. Members of each of the other groups (faculty, non-academic staff, and administrators) shall be appointed for five (5) years. Any member whose term has expired and who is willing to continue to serve on the committee may be reappointed.
 - b. The President shall appoint one or more persons to serve temporarily as a member of the committee to fill a vacancy or ensure a quorum, or in response to a request from the Chair to avoid delay in proceedings. The term of temporary appointment continues for the duration of the proceedings or until the temporary appointee is replaced by a regular member.
5. Removal of Members - The Committee Chair may either permanently or temporarily remove or replace any regular member of the committee under the following circumstances: In response to a request from those responsible for the nomination of the member; In response to a request from a majority of the committee members; In response to a request from the Title IX Coordinator; In response to a request from a committee member that he/she be excused; or In response to a request from a party

who raises a legitimate concern regarding a conflict of interest. If any person or group other than the member requests removal, that member will have an opportunity to rebut any evidence presented in support of the request for removal. If a concern as enumerated above is raised about the Chair, the President of the College will make the determination about either permanent or temporary removal from the committee.

6. Quorum - There must be a member from each of the four constituent groups specified above to constitute a quorum.
7. Authority of the Committee - The committee may: (1) call student and employee witnesses to testify or to be present during a hearing, and obtain other evidence held by the College or any student or College employee; (2) arrange with the College Title IX Coordinator for appropriate funding and staff support to facilitate hearings; (3) hold pre-hearing conferences; (4) issue hearing orders; (5) hold formal hearings and control conduct of such hearings; and (6) make decisions, findings of fact, and recommendations, including recommended sanctions by vote of a majority of the members involved in the hearing process.
8. Preparation for and Conduct of the Hearing
 - a. Written Statements - Within ten (10) working days of mailing of the hearing notice by the Title IX Coordinator, the parties must submit to the Title IX Coordinator the following information (NOTE: Failure to timely submit the information will result in a waiver of the party's right to submit the information):
 - i. detailed statement of facts relevant to the complaint or report of a Policy Violation;
 - ii. names and addresses and anticipated testimony from witnesses to be called;
 - iii. copies of any documents which will be submitted as evidence;
 - iv. additional materials the party believes the committee should obtain prior to the hearing;
 - v. reference to the portion of this Policy alleged to be violated;
 - vi. specific remedy(ies) requested;
 - vii. whether the party will be represented by legal counsel and the identity of the counsel; and

- viii. if the party is not represented by counsel, whether the party requests the College provide an advisor of the College's choice.
- b. Forwarding Documents - The Title IX Coordinator will forward copies of the investigator's written investigation report; the written statements described above; and any additional evidence relevant to the matter to the members of the Discrimination Grievance Committee at least five (5) days prior to the hearing.
- c. Pre-hearing Conference
 - i. At any time within five (5) days prior to the date of the hearing the Chair of the Discrimination Grievance Committee may call a pre-hearing conference. Topics discussed at a pre-hearing conference may include, but are not limited to: (a) whether the evidence presented is complete; (b) whether additional investigation is required; (c) whether additional witnesses should be called; and (d) time limits and order of presentation of evidence at the hearing.
 - ii. With concurrence of a majority of the Discrimination Grievance Committee, the Chair may decide to: set aside the hearing date for any period up to ten (10) days for additional investigation, to obtain additional witnesses or evidence.
- d. The Hearing
 - i. The Chair of the Discrimination Grievance Committee will conduct the hearing. Strict rules of evidence will not be applied. However, the Chair of the Committee may limit or refuse to allow evidence or testimony that is not reasonably related to a determination of whether a Policy Violation occurred. The Chair will be the final arbiter of all matters of procedure. All hearings are closed to the public.
 - ii. At the live hearing, the Chair will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the Chair to

otherwise restrict the extent to which advisors may participate in the proceedings. At the request of either party, the Chair will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Committee and parties to simultaneously see and hear the party or the witness answering questions. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the Chair will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the College will provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. If a party or witness does not submit to cross-examination at the live hearing, the Committee will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Committee cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. Live hearings pursuant to this paragraph may be conducted with all parties physically present in the same geographic location or, at the Chair's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. The College will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

- e. The Decision - Within ten (10) working days of the conclusion of the live hearing the Discrimination Grievance Committee will simultaneously submit a decision in writing to the parties, the Title IX Coordinator and to the College's President. The written

decision will contain the following: (A) Identification of the allegations potentially constituting a Policy Violation; (B) A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (C) Findings of fact supporting the determination; (D) Conclusions regarding the application of the College's code of conduct and policies to the facts; (E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Committee recommends imposing on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity should be provided by the College to the complainant; and (F) The College's procedures and permissible bases for the complainant and respondent to appeal. In making its determination, the Committee applies a preponderance of the evidence standard, i.e. whether there is a preponderance of the evidence to believe that a respondent engaged in a Policy Violation. This means that individuals are presumed not to have engaged in alleged conduct unless a "preponderance of the evidence" supports a finding that the conduct has occurred. This "preponderance of the evidence" standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.

f. Action on Decision

Option 1: If a majority of the Committee finds a preponderance of the evidence of a Policy Violation does not exist, the matter is documented and closed. Either party may appeal the finding of the Committee.

Option 2: If a majority of the Committee finds that a preponderance of the evidence of a Policy Violation exists, the written finding will be provided to the Discipline Authority for a determination of appropriate sanctions. In the case of student respondents, the Discipline Authority will be the Vice President of Academic Affairs or designee by the President. In the case of employee respondents, the Discipline Authority is the Vice President of Finance and Administration or the President's designee. Within fourteen (14) working days of receipt of the Committee's findings, the Discipline Authority must inform the Title IX Coordinator of the ultimate sanctions imposed upon a respondent. The Title IX Coordinator will inform, in writing, the respondent and complainant of the sanctions. Either party may

appeal the Committee's findings and/or the Discipline Authority's sanctions.

C. Filing an Appeal

- A. A request for an appeal before the College's President must be filed within five (5) working days of the receipt of the Title IX Coordinator's written communication informing the party of the Committee's findings and the Discipline Authority's sanctions. A request for an appeal before the College's President in the case of an appeal of the Title IX Coordinator's decision that the College has no jurisdiction must be filed within five (5) working days of receipt of the Title IX Coordinator's written decision of no jurisdiction. The request for an appeal must be filed with the Title IX Coordinator. The request for an appeal must be in writing and must describe the appellant's desired outcome; as well as describe the basis for the appeal which is limited to the following: (a) Procedural irregularity that affected the outcome of the matter; (b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; (c) the severity of the sanction imposed is disproportional to the Policy Violation; or (d) The Title IX Coordinator, investigator(s), or Discrimination Grievance Committee had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- B. The College will: (A) Notify the other party in writing when an appeal is filed; and (B) allow both parties seven (7) working days to submit any additional written statement to the President in support of, or challenging, the appeal.
- C. As soon as practicable, the Title IX Coordinator will provide the President with a copy of the written appeal and the parties' additional written statements.
- D. Standard of Review - The President reviews the findings of the Committee and Discipline Authority. The President may approve, overturn, or modify the findings and/or sanction. The President may overturn or modify the findings and/or sanction if the President finds that: (1) the Committee had a conflict of interest; (2) the evidence does not provide a reasonable basis for the resulting decision and/or sanction; or (3) specified procedural errors were so substantial as to deny a fair hearing to either party.
- E. Within fourteen (14) working days of receipt of the written appeal and the parties' additional written statements, the President will notify the Committee Chair, the Title IX Coordinator, and the parties, in writing, of

the decision relative to each of the findings and the rationale for the President's decision.

D. Conflict of Interest

The names of the investigator and the individuals who will serve on the Discrimination Grievance Committee for a particular matter will be readily accessible. These individuals must promptly disclose any potential conflict of interest they might have in a particular case. In the rare situation in which an actual or perceived conflict of interest arises between an investigator, or member of the Discrimination Grievance Committee, that conflict must be disclosed to both parties.

E. Extensions of Time

The Title IX Coordinator may grant a temporary delay of the formal or informal resolution process described above or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

FALSE ALLEGATIONS

It is a violation of this policy for anyone to knowingly make a false accusation of sexual harassment. False allegations may subject the accuser to disciplinary action. Failure to prove a claim is not equivalent to a false allegation.

CONFIDENTIALITY

Parties in these processes, including the complainant, the respondent, and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure. In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality. The EO will keep confidential the complaint, report, witness statements, and any other information provided by the complainant, respondent, or witnesses and will disclose this information only to the complainant, respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other College officials as necessary for coordinating supportive measures or for health, welfare, and safety reasons, and to government agencies who review the College's compliance with federal law. The investigation report and any written decision from the Discrimination Grievance Committee will be disclosed only to the complainant, respondent, EO, Discipline Authority¹ as necessary, and College officials as necessary to prepare for

¹ In the case of employees, the Discipline Authority is the College administrator with the authority to impose sanctions in accordance with applicable employment policies and procedures. In the case of students, the Discipline Authority is the Vice President of Student Services.

subsequent proceedings (e.g., College President and College Legal Counsel). Members of the Discrimination Grievance Committee have the same strict obligations to keep all information they learn confidential, subject to the limited exception when necessary to protect health, welfare or safety. Information about complaints and reports, absent personally identifiable information, may be reported to College officials and external entities for statistical and analysis purposes pursuant to federal and state law and College policy. In addition, the College will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures.

REQUIRED TRAINING

In order to comply with Title IX of the Education Amendments of 1972, the Title IX Coordinator, investigators, Discrimination Grievance Committee, and any person who facilitates the College's Discrimination Grievance Procedures (Policy 3357:13-15-031) must receive training on the definition of sexual harassment found in 34 C.F.R. § 106.30, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. In addition, the Discrimination Grievance Committee must receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. College investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of complaints of sexual harassment.

FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

STATE OF OHIO MANDATED REPORTING FOR MINORS AND THOSE WITH DISABILITY

The College is required to report to the appropriate authorities, where a reasonable cause is suspected, for those under the age of 18 and those under the age of 21 with a development disability or physical impairment based on ORC 2151.421.

FEDERAL TIMELY WARNING REPORTING OBLIGATIONS

Victims of sexual misconduct should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The College will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

ADDITIONAL POLICY PROVISIONS

a. Amnesty for Victims and Witnesses

The College community encourages the reporting of misconduct and crimes by victims and witnesses. Sometimes, victims or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of policy violations at the time of the incident. It is in the best interests of this community that as many victims as possible choose to report to College officials, and that witnesses come forward to share what they know. To encourage reporting, WSCC pursues a policy of offering victims of misconduct and witnesses amnesty from minor policy violations related to the incident.

Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, as student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Security). The College pursues a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, the College will provide educational options, rather than punishment, to those who offer their assistance to others in need.

b. Parental Notification

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 non-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 the Family Educational Rights and Privacy Act.

OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO PHYSICAL SEXUAL MISCONDUCT

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous consent does not imply consent to sexual activity in the future. Silence or passivity -- without actions demonstrating permission -- cannot be assumed to show consent. Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to raise such questions. When alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when, where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals who consent to sex must be able to understand what they are doing. Under this policy, "No" always means "No," and "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "no."

OVERVIEW OF POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of the faculty/staff handbooks. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, supervisor-supervisee) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the

employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. While no relationships are prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

RECORDKEEPING

Pursuant to Title IX of the Education Amendments of 1972, the College must maintain for a period of seven years records of – (1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript of any live hearing, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the College’s education program or activity; (2) Any appeal and the result therefrom; (3) Any informal resolution and the result therefrom; and (4) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The College will make these training materials publicly available on its website, or if the College does not maintain a website the College will make these materials available upon request for inspection by members of the public. In addition, for each response required under 34 C.F.R. § 106.44, the College will create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or complaint of sexual harassment. In each instance, the College will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the College’s education program or activity. If the College does not provide a complainant with supportive measures, then the College will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the College in the future from providing additional explanations or detailing additional measures taken.

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