

3341-2-41 Student Sexual Misconduct and Relationship Violence Policy and Procedures.

Applicability	All University units
Responsible Unit	Student Affairs
Policy Administrator	Vice President for Student Affairs

(A) Policy Statement and Purpose

Bowling Green State University (BGSU) prohibits the crimes of domestic violence, dating violence, sexual assault and stalking (as defined by the Clery Act) and reaffirms its commitment to build a welcoming, safe and diverse environment. Toward that end, BGSU issues this statement of policy to inform the campus community of our programs to address domestic violence, dating violence, sexual assault and stalking as well as the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, when it is reported to a university official.

BGSU is committed to providing an environment where all students of the university community may pursue their employment or studies free from discrimination. All members of the university community have a responsibility to create and maintain an environment free from discrimination and harassment.

BGSU does not discriminate on the basis of sex or gender in any of its education, employment, or service activities. BGSU prohibits sexual violence, sexual and gender-based harassment, domestic violence, dating violence, stalking, retaliation, and violation of interim and protective measures (collectively, "Prohibited Conduct.")

BGSU has adopted this policy to express its commitment to: prevent prohibited conduct and address its effect should it occur; support individuals who report incidents of possible prohibited conduct and those affected by

it; and provide a fair and impartial process for all parties when an incident is reported.

This Policy establishes procedures and standards by which reported incidents of Prohibited Conduct involving students will be received, investigated, evaluated and, when warranted, the manner in which sanctions will be imposed. It describes how BGSU will proceed, once possible Prohibited Conduct has been reported, consistent with our duties under state and federal laws, including, but not limited to, Title IX, the Clery Act, the Violence Against Women Act (VAWA), and related regulations.

If there is an incident alleging misconduct involving employees (classified, administrative, faculty), that case will be handled by the Office of Human Resources using its employment related policies and procedures as appropriate, and they can be contacted at 419-372-8421 or ohr@bgsu.edu.

(B) Policy Scope

- (1) This Policy applies to BGSU students in a BGSU educational program or service activity. This policy also designates “mandatory reporters” and specifies the duties applicable to those faculty, staff, and volunteers.
- (2) BGSU has jurisdiction under this Policy whenever the Prohibited Conduct occurs on campus.
- (3) BGSU also has jurisdiction when Prohibited Conduct occurs off campus (including online or electronic conduct) if it: occurs in connection with a BGSU educational program or activity, including BGSU-sponsored education abroad, research or internship programs; or poses a threat of serious harm to or creates a hostile environment for any member of the university community.
- (4) Recognized Student Organizations (RSOs) are registered with the Division of Student Affairs, Office of the Dean of Students. The university has jurisdiction over RSOs and it may address Prohibited Conduct committed in relation to RSO activities through the Code of Student Conduct and this Policy. Reports of Prohibited Conduct involving RSOs will be provided to the Title IX Coordinator, who

will confirm that the university takes appropriate action to eliminate the conduct, prevent its occurrence, and address its effects.

- (5) The status of the Responding Party, including whether the Responding Party is a BGSU student, determines which procedures for reporting, investigating, and resolving Prohibited Conduct apply.

(C) Sources of Assistance

- (1) BGSU wants every student who may have experienced harm to have access to resources to get help and assistance. BGSU and the community offer a number of resources that can provide support and guidance in response to any incident of harm.
- (2) These resources are available to every BGSU student who may have experienced harmful conduct, regardless of whether they intend to report the conduct to university officials or law enforcement.

Resources	Phone Number
BGSU Police Department	911 or 419-372-2346
Counseling Center (confidential)	419-372-2081
The Cocoon (confidential)	419-373-1730– ask for a campus victim advocate when you call.
Falcon Health Center (confidential)	419-372-2271
Unison (confidential)	419-502-HOPE (4673)
Office of the Dean of Students	419-372-2843
Psychological Services Center (confidential)	419-372-2540
Title IX Office	419-372-8476
Wellness Connection	419-372-WELL (9355)
Wood County Hospital	419-354-8900

- (3) For additional information on BGSU and community resources, including emergency and ongoing assistance; health, mental health, and advocacy services; options for reporting Prohibited Conduct; and available support with academics, housing, transportation, pregnancy, and employment, see the BGSU Title IX website. In addition, anyone may contact the Title IX Coordinator, located in

McFall 110 or at 419-372-8476 to discuss available BGSU and community resources and assistance.

Firelands Campus Resources	Phone Number
Bayshore Counseling Services – Sandusky Office	419-626-9156 (request intake office)
Erie County Deputy (for Firelands campus)	419-372-0709 or 911
Firelands Counseling and Recovery Services (confidential)	800-342-1177 (ext. 5177)
Office of the Dean	419-372-0623

(4) For additional information on BGSU Firelands resource, contact the Associate Dean at 419-372-0664.

(a) Confidential and Non-Confidential Resources

BGSU recognizes that there is an important difference between making a complaint to the university, a community resource, seeking confidential assistance, and making a complaint to law enforcement. Many campus and community resources are not confidential. This section outlines the confidential and non-confidential resources available to individuals who have experienced harmful conduct.

(b) Confidential Resources

Confidential resources are professionals who are required by law to protect confidentiality. A confidential resource must not reveal information disclosed in confidence unless they are given permission by the person who disclosed it, or there is an imminent threat of harm, or suspected abuse of a person under the age of eighteen, or as otherwise required or permitted by law or court order.

Confidential resources available to BGSU students include the BGSU Counseling Center, The Cocoon, Psychological Services Center, and the Falcon Health Center (for Firelands Campus this includes Firelands Counseling and Recovery Services). Clergy and mental and medical health care providers are also confidential resources.

(c) Non-Confidential Resources

BGSU employees who are not confidential resources will seek to respect the privacy of all individuals. Reported information about Prohibited Conduct will be shared only with BGSU employees who need to know the information to assess, investigate, and resolve the report.

(D) Interim and Protective Measures

- (1) Interim measures are services, accommodations and other forms of assistance that BGSU provides after the Office of the Dean of Students or Title IX Office receives notice of Prohibited Conduct but before any outcome has been decided. These interim measures typically are kept in place until the matter is resolved but may be extended when warranted.
- (2) BGSU will implement reasonably available interim measures to protect a Reporting Party and facilitate the Reporting Party's continued access to BGSU employment or educational programs and activities. Interim measures may be both supportive and protective measures.
- (3) A Reporting Party or Responding Party may meet with the Title IX Coordinator to discuss the adequacy or need for supportive or protective measures.
- (4) BGSU will keep private any interim measures provided under this Policy to the extent practicable.
- (5) Implementation of interim measures does not mean or suggest that BGSU has made any decision about the merits of the report.
- (6) BGSU may order reasonable interim measures on its own initiative or it will consider a request for reasonable protective measures. The imposition and enforcement of protective measures are within the sole discretion of the Vice President for Student Affairs or designee. Some offices who have been assigned as designees include, but are not limited to, the Office of Residence Life, Office of the Dean of Students, and Title IX Office. Reasonable protective measures may be instituted, modified or rescinded at any step in the process that is

set forth in this Policy. They may be ordered in favor of a Reporting Party, a Responding Party, a witness, or any other member of the university community who, in the judgment of the Vice President for Student Affairs or designee, would benefit from such measures.

- (a) Interim measures may include:
 - (i) Prohibiting entry to certain university facilities or participation in university activities;
 - (ii) Modifying academic schedules (typically to separate the Reporting Party and Responding Party);
 - (iii) Modifying room assignment;
 - (iv) Modifying BGSU student employment work schedules or student job assignments (which may include suspending student employment with or without pay);
 - (v) Imposing an interim suspension.
- (b) Protective measures (such as a no contact directive) may also be implemented for witnesses and other members of the university community, following the initiation of an investigation.

(E) Reporting Options

- (1) BGSU strongly encourages prompt reporting of conduct that may violate this Policy. Anyone may make a report, including a student, employee, visitor, or other third party. A person may choose to make a report to the university, to law enforcement, or to both. BGSU will make support and resources available to a person making a report no matter which option they choose.
- (2) Reporting to law enforcement or the university (other than confidential reporting options) means that, as appropriate, the report will be shared with others.

(a) Reporting to Law Enforcement

BGSU encourages anyone who experiences Prohibited Conduct to make a report to BGSU Police Department. Prompt reporting enables law enforcement to collect and preserve evidence.

A person who wishes to pursue criminal action in addition to, or instead of, making a report to BGSU may contact law enforcement directly by calling:

- (i) 911 (for emergencies);
- (ii) BGSU Police Department: (419) 372-2346 (non-emergencies);
- (iii) Bowling Green City Police Division: (419) 352-2571 (non-emergencies);
- (iv) Wood County Sheriff's Office: (419) 354-9001 (non-emergencies)
- (v) Ohio State Highway Patrol: (419) 352-2481 (non-emergencies).

- (3) Upon request, BGSU staff will assist in making a report to law enforcement. For conduct occurring in the residence halls, the Office of Residence Life can assist in making a report to the BGSU Police Department. For reports of off-campus Prohibited Conduct, the BGSU Police Department can assist in identifying which law enforcement agency should receive the report.

(a) Reporting to the university

An individual who chooses to pursue formal action under this Policy may make a report directly to the Title IX Coordinator in 110 McFall Center.

- (b) An online report form may be found on the BGSU website by visiting the Title IX or the Office of Human Resources pages.

- (4) Designated BGSU staff, including the Office of the Dean of Students, the Office of Residence Life, the Office of Accessibility Services, the Office of Multicultural Affairs, the Center for Women and Gender Equity, for Firelands, the Associate Dean of Students, and the BGSU Police Department, will help individuals with reporting.

- (5) Anonymous Reports

A person may report Prohibited Conduct to BGSU without disclosing one's name using the online reporting form found on the BGSU website. Although the report may be filed anonymously, the date and time of the incident must be included.

- (6) Depending on the circumstances, such as the unavailability of witnesses and the university's relationship to the Responding Party, BGSU's ability to investigate and remedy an anonymous report may be limited. BGSU will, however, take action as it deems appropriate and in the best interests of the overall university community, to the extent allowed by the available information.

Amnesty to Students When Reporting Prohibited Conduct

- (7) BGSU will not pursue a Code of Student Conduct violation against any participant in an investigation under this Policy, whose potential violation of BGSU policy on drug or alcohol use was identified during the investigation, provided that the drug or alcohol use did not (and does not) endanger the health or safety of another person. BGSU may, however, initiate an assessment, hold an educational discussion, or pursue other non-disciplinary options to address the drug or alcohol use.

- (8) Reporting by BGSU Employees and Others

- (a) Mandatory Reporters

Each of the following is considered a "mandatory reporter:"

- (i) Members of the Board of Trustees;

- (ii) Executive officers (including Associate or Assistant Vice Presidents and Vice Provosts);
- (iii) Cabinet members;
- (iv) Deans, directors, and department chairs (including those serving in assistant or associate roles);
- (v) Academic Program Coordinators;
- (vi) Supervisors of administrative and classified staff;
- (vii) BGSU faculty full-time and part-time, Graduate Teaching Instructors and Graduate Teaching Assistants, and any other person providing instruction at BGSU (such as flight instructors);
- (viii) All academic advisors;
- (ix) Any individual who serves as an advisor to a recognized student organization (this would include advisors of fraternity and sorority life and club sports);
- (x) All Tier 1 Volunteers (as defined in the Volunteers @ BGSU Procedures);
- (xi) All individuals, including student-employees (such as Resident Advisors and Community Assistants), who work for the Office of Residence Life;
- (xii) All staff and graduate students working in the Division of Student Affairs;
- (xiii) All staff and graduate students who work for Intercollegiate Athletics (including Assistant coaches and other volunteers within Athletics);
- (xiv) All Campus Security Authorities, as designated by BGSU under the Clery Act, who are not otherwise

specified (as listed by title in the Annual Security and Fire Safety Report);

- (xv) Any individual serving on an acting or interim basis in any position described in this policy; and, university faculty, staff or volunteers providing oversight to BGSU students while on domestic or international travel in connection with any BGSU sponsored teaching, research or service activity.

(9) Exceptions:

Vendors who are not BGSU employees, students who are not teaching or working for Residence Life, employees who are not supervisors and do not fall into any of the other categories such as advisor, and volunteer advisors who serve for an organization with a policy stating that they are not mandatory reporters. Additional exceptions include:

- (a) professionals who are required by law to protect confidentiality (confidential resources);
- (b) volunteers who are not considered Tier One Volunteers (determined by Risk Management); and,
- (c) Vendor employees.

- (10) A “mandatory reporter” must immediately report any information about suspected Prohibited Conduct to the Title IX Coordinator or the Office of Human Resources in cases involving faculty or staff. A mandatory reporter who fails to make a timely report may be subject to appropriate discipline.

All who fall under the category of “mandatory reporter” must attend an in person training and complete online trainings as defined by the university.

Questions about “mandatory reporter” status should be directed to the Office of General Counsel at (419) 372-0464.

- (a) All Other Employees

Employees who are not mandatory reporters are not required to report information about suspected Prohibited Conduct to the Title IX Coordinator. It is difficult, however, to address Prohibited Conduct that has not been reported. Accordingly, employees who are not mandatory reporters (or confidential resources) are encouraged to ask the person who gave them the information for permission to share it with the Title IX Coordinator.

(F) Prohibited Conduct

Prohibited Conduct includes the following acts: sexual assault, sexual misconduct, sexual or gender-based harassment, stalking, intimate partner/dating violence, domestic violence, retaliation, and violation of interim and protective measures. This Policy applies to Prohibited Conduct regardless of the sex, sexual orientation, and/or gender identity or gender expression of the Reporting Party or Responding Party.

Each act of Prohibited Conduct is specifically defined in this policy.

(1) Sexual Assault

- (a) Sexual assault is having sexual intercourse, oral sex, or sexual contact without consent. Sexual assault also includes touching of an erogenous zone (thigh, genitals, buttock, female breast) without consent. Sexual intercourse means anal or vaginal penetration by a penis, tongue, digit, or any inanimate object. Sexual assault includes the following:
- (b) Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- (c) Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim.

- (d) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (e) Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

(2) Consent

- (a) Consent is a clear and unambiguous agreement to engage in a particular activity. The person who initiates a sexual activity is responsible for obtaining consent for that activity.
- (b) Consent must be expressed outwardly through mutually understandable words or actions. The person who initiates a sexual activity may not infer consent from silence, passivity, or a lack of resistance.
- (c) person who is incapacitated may not give consent.
- (d) Consent must be voluntarily given. It cannot be obtained through coercion or force.
- (e) Consent must not be inferred from an existing or previous dating or sexual relationship. Even within an existing relationship, the parties must consent to engage in any sexual activity each time it occurs.
- (f) Consent to one sexual activity is not consent to another sexual activity, nor is it consent to the same sexual activity at another time.
- (g) A person may withdraw consent at any time. If consent is withdrawn, the sexual activity must stop immediately.
- (h) To determine under this Policy whether consent was sought and given, BGSU will evaluate what the Responding Party knew, or reasonably should have known, when all the relevant circumstances are considered.

(3) Incapacitation

An incapacitated person lacks the ability to make an informed, rational judgment about engaging in sexual activity.

Under this Policy, a person who initiates a sexual activity with another person, and who actually knows or reasonably should have known that the person was incapacitated, has not obtained consent.

A person is incapacitated if, at the time consent is sought and regardless of the cause of incapacitation, they are physically or mentally helpless, asleep, unconscious, or unaware that sexual activity is taking place.

A person may become incapacitated due to a temporary or permanent physical or mental health condition or due to the consumption of drugs or alcohol.

When drugs or alcohol are involved, incapacitation is a state beyond drunkenness or intoxication. A person using drugs or drinking is not necessarily incapacitated: rather, their level of impairment must be significant enough to render that person unable to give consent.

The effect of drugs or alcohol varies from person to person, but any of the following signs indicate that a person may be incapacitated: slurred or incomprehensible speech, stumbling or unsteady walking, falling, episodes of unconsciousness (as distinct from a subsequent failure of memory), vomiting, or incontinence.

(a) Coercion

Coercion is conduct that would reasonably place a person in fear, and that is used to compel that person to engage in sexual activity.

Examples of coercive conduct include intimidation and express or implied threats of immediate or future harm to the person or others. Harm may be a physical, emotional, reputational, financial, or other injury to that person or another.

(b) Force

Force is the use of physical action, strength or violence to compel a person to participate in sexual activity.

(4) Sexual Misconduct

Sexual misconduct is a term which may include any intentional touching of a sexual nature or attempted touching of a sexual nature without consent that does not rise to the level of fondling. Sexual misconduct may also include sexual exploitation (such as voyeurism or non-consensual recording of sexual activity), and lewd or obscene sexual behavior (such as public masturbation, or exposure of oneself without another's consent).

(a) Touching of a Sexual Nature

Touching of a sexual nature includes touching for the purposes of sexual gratification in areas of the body that does not include breasts, buttocks, groin, or genitals.

(5) Sexual or Gender-Based Harassment

Sexual harassment is any unwelcome sexual advance, request for sexual favors or any other unwanted conduct of a sexual nature whether verbal, non-verbal, physical or graphic, when the conditions set forth in this policy are present.

Gender-based harassment is unwelcome harassment that is based on actual or perceived gender, sexual orientation, or gender identity or expression.

(6) Stalking

Stalking is a pattern of conduct toward another person that would cause a reasonable person to fear bodily injury (to themselves or to a family or household member) or to experience substantial emotional distress.

For purposes of this Policy, pattern of conduct means two or more incidents, closely related in time, in which a person follows, monitors, observes, surveys, threatens, or communicates to or about

another person, or interferes with a person's property. Stalking conduct may be direct, indirect, or through another person and may be accomplished by any action, means, or device (including cyberstalking).

Cyberstalking is a form of stalking that includes harassment via social media, email, text, or other forms of electronic communication.

(7) Intimate Partner Violence

Intimate partner violence occurs between individuals who are or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. It consists of two elements: unwelcome conduct and context. The conduct and context are specifically described in this policy.

Intimate partner violence may include an actual or threatened act of physical violence against the other partner. It may also include economic or emotional abuse, such as conduct that threatens, intimidates, coerces, manipulates, humiliates, isolates, or frightens the other partner.

(8) Domestic Violence

A felony or misdemeanor crime of violence committed

- (a) By a current or former spouse or intimate partner of the victim;
- (b) By a person with whom the victim shares a child in common;
- (c) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - (i) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

- (ii) 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 the jurisdiction in which the crime of violence occurred.

(9) Retaliation

Retaliation occurs when any individual or group takes an adverse action against a person because they made a good faith report of Prohibited Conduct or participated in a proceeding under this Policy.

An adverse action is one that would discourage a reasonable person from engaging in activity protected under this Policy. Retaliation is considered Prohibited Conduct under this policy.

The good faith pursuit of legal action is not retaliation.

(10) Violation of Interim and Protective Measures

Failure to comply with Interim and Protective measures is a separate and independent violation of this Policy.

The Title IX Coordinator, in consultation with the Office of the Dean of Students, will determine if the reported conduct meets these criteria of sexual assault, sexual harassment, gender-based harassment, stalking, intimate partner violence, domestic violence, retaliation, violation of interim or protective measures, and sexual misconduct. Behavior that does not meet these criteria may be addressed under the Code of Student Conduct.

NOTE: Suspected incidents of child abuse (including incidents of suspected child sex abuse) must be reported to Children's Services. Children's Services can be contacted by calling the child abuse hotline 419-354-9669 or 1-866-860-4136. Contacted the BGSU Police Department if you have questions about matriculated students under the age of eighteen.

(G) University Resolution Processes

BGSU uses two processes to resolve reports of Prohibited Conduct under this Policy: (1) Formal resolution is by an investigation that may result in

a hearing and sanctions and may involve an appeal. (2) Alternative resolution is by informal or restorative methods.

After initially assessing the reported information, the Title IX Coordinator will decide if the investigation results in sufficient information to move forward and which process is most appropriate to use (although that decision may change as circumstances warrant).

If the Reporting Party has asked for any of the following circumstances, the Title IX Coordinator may consult with the Title IX Deputies to determine the course of action: (1) to remain anonymous, (2) or for BGSU not to pursue an investigation, (3) or for BGSU not to take disciplinary action.

The formal resolution process begins when notice of an investigation into an alleged policy violation is given to the Responding Party. Typically this process (except for any appeal) should conclude within sixty to ninety calendar days, but that time may be extended for good cause (such as, extended breaks where students may not be present or police involvement when the university is asked to pause for the purposes of a criminal investigation). The university will use its best efforts to achieve a timely resolution while being thorough and fair to all parties.

(1) The Initial Assessment

Upon receiving a report of Prohibited Conduct, the Title IX Coordinator will make an initial assessment of the reported information.

The first object of the initial assessment is to respond to any immediate health or safety concerns, including providing resources. The second object is to evaluate the nature and circumstances of the reported conduct and the specificity of the information (such as whether it is sufficient to personally identify the Reporting Party, the Responding Party, any witnesses, and any other persons with knowledge of the conduct). This task will include assessing the status of the Responding Party.

If the Responding Party is a university employee, the policy and procedures for responding to a report of Prohibited Conduct are addressed by Human Resources and are set forth in university Policy 3341-5-38 (Sexual Harassment) and 3341-5-33 (Anti-Harassment).

If the Responding Party is a student and an employee, the university's Title IX Coordinator or designee will determine which policy applies depending on the facts of the case, and whether the Prohibited Conduct alleged was committed predominately in the Responding Party's role as a student or predominately as an employee.

Student-employees who are reported to have engaged in Prohibited Conduct in their employment capacity will be subject to review under university Policy 3341-5-38 (Sexual Harassment) rather than under this Policy.

If the Responding Party is not a BGSU student or employee, or is not a participant in a university-related program or activity, BGSU's authority to take action may be limited. The Title IX Coordinator or designee, in consultation with the Office of General Counsel, will determine how best to proceed with regard to a third-party Responding Party. In those instances when BGSU cannot apply the procedures in this Policy or another university Policy to the alleged wrongdoer, BGSU will assist the Reporting Party in identifying and contacting appropriate campus or community resources, including law enforcement.

In deciding what course of action to take, the Title IX Coordinator will consider what the Reporting Party has requested; the degree to which the available information or evidence indicates that a Policy violation may have occurred; and BGSU's duty under Title IX obligation to determine what happened and take corrective action, as appropriate, to eliminate, prevent, and address the effects of Prohibited Conduct. The Reporting Party and Responding Party will each receive information about resources, rights and responsibilities in writing as well as updated information about the investigation during the process.

(H) Formal Resolution

The formal resolution process typically begins when a Reporting Party has reported Prohibited Conduct and requested an investigation. It may also begin when the Title IX Coordinator (after consulting with Title IX Deputies) has decided that, despite a Reporting Party's request, a formal

resolution is required to ensure the Reporting Party's health and safety or that of the university community.

The Title IX Coordinator will decide on the most effective means to formally review a report, but in most instances, that review will involve an investigation.

(1) Investigation

An investigation must give the Reporting Party and Responding Party notice and a full and fair opportunity to be heard, to submit information and to identify witnesses. The investigation will be thorough and impartial.

The Title IX Coordinator will assign one or more investigators to each investigation. In many cases, an investigator will be a Title IX Deputy Coordinator, but may also be a member of the Office of the Dean of Students, the Title IX Coordinator (when assigned by the Vice President for Student Affairs), any trained staff member, or an external investigator to be selected and assigned in consultation with the Vice President for Student Affairs, the university's President, and the Office of General Counsel (if applicable).

The investigator typically will separately interview the Reporting Party, the Responding Party, and available witnesses; give the parties an equal opportunity to submit or identify relevant information; and gather relevant information. That information may include documents, images, written or electronic communications or data, and medical records (with the person's consent).

The investigator will provide the Reporting and Responding Parties with a draft summary of their statement and give them an opportunity to comment.

Although the Reporting Party or Responding Party may provide materials to the investigator, it is the university's duty to gather relevant information that is reasonably available. The investigator may impose reasonable and equal time and page limits on documents and information presented by the parties.

(a) The Role of the Investigator

Each person serving as an investigator must be impartial and have no conflict of interest. There will be a primary investigator who will serve as the lead investigator. This person may be assisted by one or more secondary investigators. Where circumstances warrant, and in consultation with General Counsel, the President, and the Vice President for Student Affairs, the Title IX Coordinator may appoint an external investigator.

A Reporting Party or Responding Party who is concerned that the designated investigator cannot conduct a fair and unbiased review may report those concerns to the Title IX Coordinator. The Title IX Coordinator will assess the circumstances and decide whether to designate a different investigator.

The investigator's role is to gather facts, not to function as an advocate for a Reporting Party or Responding Party. But upon request, an investigator may identify campus support resources for the Reporting Party and Responding Party and refer them to the Office of the Dean of Students to coordinate services.

(b) Notice of the Investigation

Before interviewing a Responding Party, the investigator will give that party written notice of the initiation of the investigation. The investigator will also give written notice to the Reporting Party unless that party has asked the university not to contact them.

(c) Presumption of Good Faith Reporting

BGSU presumes that a report of Prohibited Conduct is made in good faith. A finding that the conduct does not violate this Policy, or that there is not enough evidence to conclude that an incident occurred as reported, does not mean that a report was made in bad faith.

(d) Presumption of Non-Responsibility and Standard of Proof

Each investigation and hearing is a neutral, fact-gathering process in which the Responding Party is presumed not to be responsible. This presumption is overcome only if, after a hearing as provided in this policy, the appropriate decision maker finds that the Responding Party violated this Policy by a preponderance of the evidence.

For purposes of this Policy, a preponderance of the evidence means that, based on all the reliable, relevant information and reasonable inferences from that information, the Responding Party is more likely than not in violation of this Policy.

(e) Participation is Voluntary

Reporting Party, Responding Party, and witnesses may choose whether or not to participate in the investigation. Even if a Reporting Party or Responding Party declines to participate, however, the investigator may continue to investigate the reported conduct and, to the extent consistent with due process, issue findings based on the information that is available.

(f) Expectation of Truthful Information

BGSU expects the Reporting Party, Responding Party, witnesses, and all others to provide truthful information in any proceeding under this Policy. Providing false information may result in disciplinary action under the Code of Student Conduct or other applicable Policy.

(g) Acceptance of Responsibility

The Responding Party may decide to accept responsibility for the Prohibited Conduct at any time. If so, the Title IX Coordinator will refer the matter to the appointed Commissioner (as described in this policy) for sanctioning only.

(i) Advisors

The Reporting Party and Responding Party may each have one advisor of their choice throughout the formal resolution process. The university will not be responsible for professional fees of any advisor. The role of the advisor (who may be an attorney, a victim advocate, or other professional, for example) is to provide support and guidance. An advisor may not be a witness or have any other role in the process.

Changes to hearings will not be made to accommodate an advisor's schedule unless the university has chosen to have legal counsel present the case. During any meeting or hearing, an advisor's only role is to observe and provide support and counsel to the party they assist. An advisor may assist with written submissions. An advisor may not testify, question witnesses, or argue. If an advisor fails to comply with their role under this Policy, they may be excluded from the meeting or hearing. A Reporting Party or Responding Party may be deemed to have waived further rights to an advisor through the process under this Policy if the Title IX Coordinator or hearing panel determines an advisor's failure to comply with these rules to be sufficiently intentional and disruptive to warrant imposing such a sanction. A meeting or hearing may be postponed to accommodate an advisor's schedule at the sole discretion of the Title IX Coordinator and/or Commissioner.

Throughout the process, BGSU may determine what constitutes appropriate behavior by an advisor and to require compliance with the Policy.

(h) Relevant Information

The investigator is responsible for gathering relevant information to the extent reasonably possible. That information may include documents, images, written or

electronic communications or data, and medical records (with the person's consent).

The Reporting Party and Responding Party, however, will be asked to identify witnesses and provide other relevant information as soon as possible to aid prompt investigation and resolution.

The investigator will review all information identified or provided by the parties. The investigator will determine the relevance and probative value of all information developed or received during the investigation. The investigator will provide all relevant information to the parties for their review and comment (as described in this policy).

Confidential medical and counseling records generally are not available to the investigator unless the person voluntarily chooses to share them. In those instances, the investigator will summarize relevant information from those records in the preliminary report. Each party will be allowed to review the preliminary report and the relevant portions of the medical or counseling records.

When specialized expertise is needed, the investigator may seek authorization from the Title IX Coordinator to consult experts who have no connection to the reported incident.

(i) The Responding Party's Prior or Subsequent Conduct

A Responding Party's prior or subsequent conduct will not be used to prove that the Responding Party had the character to engage in the alleged conduct.

Prior or subsequent conduct may be considered for other purposes, such as determining preparation or plan, intent, knowledge, or the Responding Party's motive for taking an action. To that extent, evidence of a pattern of substantially similar Prohibited Conduct by the Responding Party (regardless of any other finding of a Policy violation) may be deemed relevant to the matter under investigation.

If the investigator determines that a Responding Party's prior or subsequent conduct is relevant, both persons will be informed in writing.

(i) Prior Sexual Contact between the Reporting Party and the Responding Party

Prior sexual contact between a Reporting Party and a Responding Party is generally not relevant. It will be considered only in limited circumstances.

For example, if the question is whether consent was given through mutually understandable actions, information about prior sexual contact may assist the investigator and decision-makers to better understand the manner and nature of the parties' sexual communication. To that extent, the information may be relevant in determining whether consent was sought and given during the incident under investigation.

If the investigator determines that the parties' prior sexual contact is relevant, both persons will be informed in writing.

(j) Witnesses

Witnesses are persons who observed the acts in question or have information relevant to the incident. A witness may not participate solely to speak about an individual's character.

The investigator will give each identified witness the opportunity to discuss the investigation process and participate in an interview. After the interview, the investigator will provide each witness a draft summary of their statement for their review and comment.

The investigator will provide a written summary of each witness's interview to the Reporting Party and the Responding Party for their review and comment. The

summary will identify the witness by name and by their relationship to each other person and the university.

The investigator will provide this information in or with the draft investigation report.

(k) Coordination with Law Enforcement

If the university learns of a concurrent criminal investigation, BGSU's investigator will inform the criminal investigator that a university investigation is in progress; inquire into the status of the criminal investigation and determine whether law enforcement officials will make any evidence available to the university.

Upon request, BGSU may agree to defer part or all of its investigation until law enforcement evidence gathering is complete.

To the extent consistent with the law enforcement request, the investigator will communicate with the parties about resources and support, procedural options and anticipated timing, and any interim measures deemed necessary for the safety and well-being of the affected individuals.

Because the standards for a criminal proceeding differ from the standards for a violation of this Policy, BGSU will not base its decisions solely on law enforcement reports or actions. BGSU will take immediate and appropriate action in response to a report of Prohibited Conduct, even if a law enforcement action is pending. If BGSU finds that Prohibited Conduct has occurred, it will take appropriate action, even if a law enforcement action is pending.

(l) Time for Completion of Investigation

The period from the start of an investigation, which begins with the investigator's notice to the Responding Party, to a final investigation report (as described in this policy) typically should not exceed sixty to ninety calendar days.

In some situations, however, this target may not be achievable. For example, additional time may be needed to ensure the integrity and completeness of the investigation (particularly in complex cases involving multiple witnesses or large volumes of information); to comply with a request by law enforcement; due to the unavailability of witnesses or university breaks or vacations; or for other well-supported reasons.

If the investigator determines that the ninety-day period must be exceeded, both parties will be informed in writing.

(m) Preliminary Report

After interviewing the Reporting Party and the Responding Party, giving each of them the opportunity to review and comment on their statement and to identify witnesses and provide information, completing witness interviews, and gathering relevant information, the investigator will prepare a preliminary report.

Usually, the preliminary report will include the Reporting Party's statement, the Responding Party's statement, a statement from each available witness, and a copy of the other relevant information obtained during the investigation and/or a written summary of it. The preliminary report will not contain any findings.

The investigator will provide the preliminary report to the Reporting Party and the Responding Party for their review and comment. Reports will not be shared electronically and should not leave the Office of the Dean of Students suite without arrangements being made prior by the investigator. Each party will have three calendar days from the date the preliminary report is shared to submit in writing, to the investigator, any comments, questions for the other party based on the statements in the preliminary report, additional documents or other information, names of additional witnesses, requests for additional investigation, or any other information they feel is relevant.

The Title IX Coordinator may impose strict page limits on the written information and materials the parties can provide the investigator in response to the preliminary report.

If a party provides questions or identifies new relevant information, the investigator will address any relevant issues identified and pursue additional investigative steps as needed. The investigator will include those matters in a revised preliminary report and give the parties a two-day period to review and comment on it before writing the final report.

(n) Final Investigation Report and Outcome of Investigation

After all review, questions, and comment periods have ended, the investigator will write a final investigation report that finds whether there is sufficient information, by a preponderance of the evidence, to believe that the Responding Party violated this Policy.

The final investigation report will include all information from the preliminary report (and any revised report); any additional relevant information gathered; the investigator's findings, and a summary of the investigator's rationale for those findings. If the investigator's findings warrant moving the final investigation report forward for adjudication, it will be accompanied with a conduct resolution record (CRR). The investigator will submit the final investigation report to the Title IX Coordinator for review and approval with copies to the Office of the Dean of Students and the Office of General Counsel for review.

The Office of the Dean of Students will simultaneously provide a written notice of the outcome of the investigation and a copy of the final investigation report to the Reporting Party and Responding Party. The notice will include information about next steps, which may include information on sanction only hearing, an option for a simplified hearing, or a full Sexual Misconduct and Relationship Violence Board hearing. Information about appeals will be provided at designated points in the process.

If a Reporting Party has asked not to be notified of the outcome, the university will honor that request. BGSU may decide that follow-up (as described in this policy) is necessary, however, and will give the Reporting Party notification of that follow-up if appropriate.

(o) When a Policy Violation Is Found

When the final investigation report finds that there is sufficient information, by a preponderance of the evidence, to conclude that Responding Party committed a violation of this Policy, then the Responding Party may request a hearing as described in Subsection (H)(2) in this policy. When a hearing is requested, the simplified hearing or Sexual Misconduct and Relationship Violence Board hearing will be scheduled in accordance with this Policy. When no hearing is requested, the Commissioner will act as a sanctioning board only.

(p) When a Policy Violation Is Not Found

When the final investigation report determines that there is insufficient information, by a preponderance of the evidence, to conclude that the Responding Party committed a violation of this Policy, then the Reporting Party may accept that determination or appeal it to the Dean of Students.

If the Reporting Party chooses not to contest the finding that there was no Policy violation, then the investigation will be closed.

To appeal, the Reporting Party must provide written notice as described in Subsection (H)(4) of this policy.

(2) Simplified hearing and Sexual Misconduct and Relationship Violence Board

When the investigation report finds that the Responding Party has committed a violation of this Policy, then the Responding Party

may: 1) accept responsibility and go to a sanctioning-only hearing with a Commissioner who is annually trained on sexual misconduct, relationship violence, the impact of trauma, this Policy, best practices for responding to claims of student sexual misconduct, and other relevant matters; 2) request a simplified hearing where all parties agree to have a Commissioner review the investigative report, determine responsibility, and sanction if appropriate; or 3) request the Office of the Dean of Students to convene a hearing before a panel of the Sexual Misconduct and Relationship Violence Board. A request for a hearing must be submitted in writing to the Title IX Office not more than five (5) school days after the submission of the investigation report.

Each Academic Year, the university will appoint a Sexual Misconduct and Relationship Violence Board consisting of no fewer than ten, no more than twenty members to be appointed by the Vice President for Student Affairs in consultation with the university President. Members of the Sexual Misconduct and Relationship Violence Board will receive annual training on sexual misconduct, relationship violence, the impact of trauma, this Policy, best practices for responding to claims of student sexual misconduct, and other relevant matters. Each member will serve for a minimum of two years unless they are removed by the Vice President for Student Affairs prior. Members may be asked to remain on the board beyond two years.

(a) Prehearing Procedure

When a case is scheduled for hearing before a panel of the Sexual Misconduct and Relationship Violence Board, the Associate Dean of Students or trained designee shall serve as a voting Chair of the hearing panel. The Chair will only vote in the event of a tie. The Chair will select two additional Sexual Misconduct and Relationship Violence Board members who will comprise the hearing panel. If a selected member has direct, firsthand knowledge of the case, is personally acquainted with the Reporting Party or Responding Party, has any other conflict or for other good cause as determined by the Chair, that individual will be recused and be replaced by another Board member. After any members, including the Chair, who were listed in the

written notice and disqualified for cause have been replaced, the composition of the panel will be final.

The Chair shall maintain records related to the selection of the hearing panel in accordance with applicable university records retention schedules.

The Chair will set a hearing date. At least five (5) calendar days before the hearing date, the Associate Dean of Students will give written notice to the Reporting Party and the Responding Party.

The written notice will specify the hearing date and list the names and job titles of the panel members. It will also specify a date by which the Reporting Party and Responding Party must each submit a list of witnesses, provide copies of any documents the party intends to present, identify any advisor who will attend the hearing, and submit a written explanation seeking to disqualify any member of the panel for bias or conflict of interest.

If the university chooses to have legal counsel present the case to the hearing panel, the written notice will include that information. If so, the Responding Party may also present their case through legal counsel.

At least three calendar days before the hearing, the Chair will make a list of all witnesses and copies of all documents available to the Reporting Party and the Responding Party.

(b) Hearing Procedure

The hearing will be recorded. The recording is university property and shall be an education record of a student Reporting Party and a student Responding Party only.

The university expects that the Reporting Party and the Responding Party will each be present and available for the entire hearing. The Reporting Party and Responding Party need not be present in the same room. A party may choose

to listen and speak by telephone from another room at the hearing location when the other party is in the hearing room.

If either party is not present to answer questions before the hearing panel, at the end of the hearing the other party may submit written questions to the Chair. The Chair will confirm that questions are relevant prior to sending them to the absent party, instructing that party to provide written answers within twenty-four hours.

The Chair will exercise control over the proceedings. The Chair is also permitted to ask questions. If any person is disruptive, the Chair may require them to leave the hearing.

Formal rules of evidence will not apply.

The hearing panel may only consider relevant information.

The Chair will determine whether information is relevant.

The Reporting Party, the Responding Party, and the members of the hearing panel may ask questions directly to each witness; except that any questions from the Reporting Party to the Responding Party or from the Responding Party to the Reporting Party will be directed to the Chair.

The Chair may disallow any question that seeks information that is not relevant or rephrase the question to limit it to relevant information.

Each witness (other than the Reporting Party and the Responding Party) will be excluded from the hearing while another witness speaks before the hearing panel.

No witness may be compelled to answer a question. The Responding Party may choose to speak on their own behalf or remain silent.

The investigator will be the first person to present information to the hearing panel.

The second person who may present information to the hearing panel is the Reporting Party.

The third person who may present information to the hearing panel is the Responding Party.

After the investigator, the Reporting Party, and the Responding Party have each had the opportunity to present information to the hearing panel, the Chair will allow each of them to ask concluding questions of each other (directly or indirectly as applicable). Finally, the Chair will allow the hearing panel to ask concluding questions of the investigator, the Reporting Party, and the Responding Party.

The hearing will end after the concluding questions. The hearing panel will consider the Prohibited Conduct for which there was a sufficient-information finding in the final investigation report. While presuming that the Responding Party is not responsible, the hearing panel will deliberate on the information presented at the hearing.

During deliberations, the hearing panel may use prior conduct history if applicable.

If a majority of the hearing panel agrees that a preponderance of the evidence compels the conclusion that Responding Party engaged in an act of Prohibited Conduct, it will find the Responding Party to be responsible.

(3) Hearing Outcome and Sanctions

If the Sexual Misconduct and Relationship Violence Board hearing panel finds the Responding Party to be responsible for Prohibited Conduct, that same board will review any impact or mitigation statements and deliberate and determine sanctions. The sanctioning process is to end Prohibited Conduct, prevent its recurrence, remedy its effects, safeguard the university community, and promote the goals and objectives of this Policy in a manner that supports the university's educational mission and its duty under Title IX. Sanctions may also be designed to promote safety, deter similar behavior and promote university values.

Once the hearing panel has made a finding as to each instance of Prohibited Conduct under consideration, and determined sanctions, it will set forth its outcome together with an explanation of the majority's reasoning in a written report and will submit the outcome to the Office of the Dean of Students within five (5) calendar days of the conclusion of the hearing.

The Office of the Dean of Students will simultaneously provide a written notice of the outcome of the hearing and a copy of the Sexual Misconduct and Relationship Violence Board hearing panel rationale to the Reporting Party and Responding Party.

A simplified hearing is a modified version of a full hearing. While it will follow similar steps as a hearing panel, the procedures may be modified at the discretion of the Commissioner in consultation with the Title IX Coordinator. It will also result in a finding and a written sanctioning determination, including the reasons in support of the determination, within five (5) business days of its meeting.

(a) Potential Sanctions

Potential sanctions include one or more of the following:

- (i) Expulsion: Termination of student status for an indefinite period;
- (ii) Suspension: Full separation from the university for a specified period or until certain conditions are met;
- (iii) Disciplinary probation: A designated period during which the student is not in good standing with the university. Disciplinary probation may restrict student privileges and set specific behavioral expectations;
- (iv) No contact directive: Restriction from entering specific campus areas and/or from all forms of contact with designated persons;

- (v) Removal, suspension or transfer from designated university courses or activities for a specified period;
- (vi) Reasonable restitution to pay for or replace lost or damaged property;
- (vii) Educational program attendance: Enrollment in and completion of one or more of the following: a class, workshop, training, or program that could appropriately help the Responding Party or the university community;
- (viii) Educational project: Completion of a project designed to help the Responding Party understand why certain behavior was inappropriate and to prevent its recurrence;
- (ix) Employment restriction: The prohibition of or limitation on university employment;
- (x) Transcript hold: Placing a hold on transcripts, meaning that BGSU may prevent a student from registering, receiving a transcript, or both, until the student has complied with all other sanctions;
- (xi) Transcript notation and/or notice to other institutions (only in cases of suspension and expulsion): A notation of non-academic disciplinary action may be made on a transcript and/or BGSU may notify other institutions of non-academic disciplinary action.
- (xii) University housing change: Placement in another room or housing unit or removal from university housing, which may be temporary or permanent depending on all the circumstances;
- (xiii) Withholding or revoking a degree: BGSU may withhold conferring a degree due to a finding of Prohibited Conduct. In extraordinary circumstances, the university may revoke a conferred degree.

(b) Written Notice of Sanction

The Office of the Dean of Students will prepare a written notice of the sanction, provide it to the Office of General Counsel for review for legal sufficiency, and provide it to the Title IX Coordinator for review and approval.

Once the sanction determination process is completed, the Office of the Dean of Students will simultaneously provide the Reporting Party and Responding Party with written notice of the sanction. The notice will include the sanction and summarize the reasons in support of the sanction. It will also describe the appeal process.

(4) Appeals

The Reporting Party and the Responding Party each may appeal as follows. All appeals will be conducted in an impartial manner. Each party will be given equivalent rights throughout the process.

(a) Appeal of the Final Investigation Report

A Reporting Party may appeal the investigator's decision that there is not sufficient evidence, by a preponderance of the evidence, to support a finding of a Policy violation by providing written notice to the Office of the Dean of Students within five (5) calendar days of the date the written notice of the outcome of the investigation is provided.

(b) Appeal of the Hearing Decision

A Reporting Party may appeal the Commissioner's or hearing panel's finding that the Responding Party is not responsible for Prohibited Conduct by providing written notice to the Office of the Dean of Students within five (5) calendar days of the date the written notice of the outcome of the hearing is provided.

A Responding Party may appeal the Commissioner's or hearing panel's finding that the Responding Party is

responsible for Prohibited Conduct by providing written notice to the Office of the Dean of Students within five (5) calendar days of the date the written notice of the outcome of the hearing is provided.

(c) Appeal of the Sanction

Either party may appeal the sanction by providing written notice to the Office of the Dean of Students within five (5) calendar days of the date the written notice of sanction is provided.

(d) The Content of an Appeal

An appeal shall consist of a plain, concise, and complete written statement outlining the basis for appeal and all relevant information supporting the appeal. The Office of the Dean of Students may impose page limits for all appeal statements.

The Office of the Dean of Students will simultaneously provide notice of appeal to the other party, who will have three calendar days to respond to that Office in writing. All appeal documents from each party will be considered together in the appeal. If an appeal contains new information that was not available at the time of the hearing, the appeal statement will be provided to the other party along with notice of appeal.

(e) Grounds for an Appeal

The Reporting Party or the Responding Party may appeal on one or more of the following grounds:

- (i) A material deviation from procedure that affected the outcome of the hearing;
- (ii) New, relevant, and material information that was unavailable, with reasonable diligence and effort, at the time of the hearing and that reasonably could

have affected the panel's or Commissioner's findings;

- (iii) A review of the Sexual Misconduct and Relationship Violence Board hearing panel or Commissioner's rationale indicates that the evidence clearly does not support the findings and provides firm and definite support for modifying those findings;
- (iv) The sanction was clearly inappropriate and/or disproportionate to the conduct for which the Responding Party was found responsible.

(f) Appeal Decided by the Dean of Students

The Dean of Students will conduct the review of the appeal.

The scope of the review will be limited to the grounds for appeal that the appealing party identified in their appeal statement. The appeal is not a rehearing.

The Dean of Students will consider only the following documents: the Sexual Misconduct and Relationship Violence Board hearing panel or Commissioner rationale, the entire record of the hearing, the parties' written appeal submissions, the sanctioning determination, and any impact or mitigation statements. The Dean of Students may determine the appropriateness of information used in the simplified hearing or Sexual Misconduct and Relationship Violence Board hearing panel rationale or the final investigation report (as applicable), including whether certain information should be considered, and the weight to give it.

The Dean of Students may freely consult with the Vice President for Student Affairs, the Title IX Coordinator, the Office of General Counsel, and other university administrators in deciding the appeal of the finding or the sanction.

(g) The Dean's Decision

In deciding each issue on appeal, the Dean of Students may do any of the following:

- (i) Affirm the decision that was appealed;
- (ii) Reject the decision that was appealed and send the matter back for further action; or
- (iii) Modify the findings or sanction

If the Commissioner or hearing panel's findings are modified based on the existing evidence, and the result is a finding of no policy violation, there may be no second appeal.

If the Commissioner or hearing panel's findings are modified based on the existing evidence, and the result is a finding of a policy violation, the Office of the Dean of Students will have the Commissioner or hearing panel (as applicable) decide on sanctions.

In an appeal of a notice of sanctions, if the sanctions are clearly inappropriate or disproportionate, the Dean of Students will impose appropriate sanctions and provide a written explanation of the reasons for the action.

The Dean of Students will seek to complete the review within ten calendar days after receiving all the appeal documents.

The decision of the Dean of Students is final and unreviewable.

The Office of the Dean of Students will simultaneously provide the final and unreviewable decision of the Dean of Students to the participating parties in writing.

(I) Alternative Resolution

Alternative resolution is structured interaction between or among the parties affected by reported conduct. It is entirely voluntary.

The goal of every form of alternative resolution is to eliminate the reported conduct, prevent its recurrence, and remedy its effects in a way that meets the expressed preference of the Reporting Party while serving the safety and welfare of the campus community.

Because alternative resolution is not appropriate in all situations, the Title IX Coordinator has discretion to determine when a case is appropriate for alternative resolution.

Some forms of alternative resolution focus on developing remedies to support the Reporting Party without the Responding Party's participation or involvement. In other forms, the Responding Party may agree to participate. Depending on the form and the type of remedy used, it may be possible for the Reporting Party to remain anonymous.

If an agreement is reached through alternative resolution, it must be reviewed and approved by the Title IX Coordinator as described in this policy. If no agreement is reached, the matter will be referred to the Title IX Coordinator for further action as appropriate.

The Title IX Coordinator will keep records of all matters referred to alternative resolution and review them to assess pattern or systemic behavior.

(1) Principles Common to all Forms of Alternative Resolution

Because alternative resolution is always voluntary, either the Reporting Party or the Responding Party can ask the Title IX Coordinator to end it and refer the matter to the formal resolution process at any time.

BGSU will not compel a Reporting Party or a Responding Party to engage in any form of alternative resolution or to directly confront each other.

Mediation, even though voluntary, will not be used in cases involving sexual assault unless governing interpretation by the U.S. Department of Education's Office of Civil Rights allows it.

Any individual who wishes to participate in an alternative resolution process must first confer with a representative of the Office of the Dean of Students.

Upon request, any participating individual may be accompanied by an advisor.

Information given during alternative resolution will be treated as private and confidential to the extent permitted by law. It will not result in any subsequent disciplinary action by the university unless required by law.

(2) Restorative Justice Principles

Alternative resolution may include restorative justice principles that are designed to allow the Responding Party to accept responsibility for their misconduct and acknowledge harm to the Reporting Party and/or the university community. A restorative justice form of alternative resolution may only be used with the express consent of both parties, following a determination by the Title IX Coordinator that the matter is appropriate for that approach.

The circle of people affected by an act alleged to be Prohibited Conduct includes not only the Reporting Party and the Responding Party but their friends and other members of the university community (who may also be witnesses), their families, and others.

It may be beneficial for the Reporting Party and other affected persons to meet with a Responding Party who is willing to acknowledge the substance of the underlying events and who recognizes that harm was reported. Furthermore, structured interactions among the affected persons can facilitate long-term healing and reduce recidivism.

(3) When Alternative Resolution Options May Be Used

Before any form of alternative resolution may be used, the Title IX Coordinator must have reviewed the matter and confirmed that it is appropriate for an alternative resolution process. As part of the review, the Title IX Coordinator will ensure that the Reporting Party's request and the participating Responding Party's agreement to use alternative resolution were each made without pressure or compulsion from others and that the parties were advised that they may withdraw from the process at any time.

With the Title IX Coordinator's approval, alternative resolution options may be used at any of the following times:

- (a) In the assessment phase, to address the conduct, prevent its recurrence, and remedy its effects without a formal finding of a Policy violation;
- (b) In the sanctioning phase, to create appropriate sanctions after a formal finding of responsibility; or
- (c) In reintegration phase, to help reintegrate the Responding Party into the university community and community concerns.

The time for completion of alternative resolution may vary, but in all cases, BGSU will initiate action within thirty (30) calendar days of the request.

(4) Alternative Resolution Agreements

If the parties voluntarily reach consensus as to the terms of an agreement through an alternative resolution process, the agreement will be documented and submitted to the Title IX Coordinator for review and approval.

The Title IX Coordinator will review the agreement to ensure consistency with the university's obligations under Title IX.

If the Title IX Coordinator approves the agreement, the university will require the Responding Party to comply with it. Failure to comply may be submitted as a violation of the Code of Student Conduct.

If no agreement is reached, the matter may be referred to the Title IX Coordinator for further action.

(J) Remedies for the University Community

Whether or not the university undertakes an investigation or any formal disciplinary action, the Title IX Coordinator may initiate specific remedial steps, such as:

- (1) Having a university entity provide training to its staff or members;
- (2) Continuing previously-established protective or supportive measures;
- (3) Identifying whether there is a need for any additional or ongoing measures, supports, or remedies; and,
- (4) Revising university policies or practices.

(K) Records Retention

BGSU will retain all records relating to the investigation of a report of Prohibited Conduct for the period specified in its official retention schedule for student discipline files. Files of investigations that resulted in suspension or expulsion will be maintained permanently per the records retention schedule for student conduct records at:

<http://www.bgsu.edu/library/cac/rm/retentionschedules/departmental.html>

(L) Policy Review

This Policy is maintained and administered by the Vice President for Student Affairs. The Policy will be reviewed each year and updated as needed. The annual Policy review will include an evaluation of any changes in legal requirements, existing university resources, and the cases resolved during the preceding year.

(M) Annual Report

The Title IX Coordinator will issue an Annual Report to the university community. The Report will provide an overview of actions taken by the university in response to reports of Prohibited Conduct by students. All confidential details will be removed to comply with FERPA and respect the privacy of the parties involved. The report will be designed to inform the community of response efforts and engage it in education and prevention initiatives.

Registered Date: August 24, 2018

Amended Date: October 17, 2019, April 2, 2020