

3341-2-41 Title IX Sexual Harassment Policy and Procedures.

Applicability	All University units
Responsible Unit	Office of Title IX
Policy Administrator	Division of Diversity and Belonging

(A) Policy Statement and Purpose

Bowling Green State University (BGSU) prohibits sexual harassment and 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 sexual harassment, domestic violence, dating violence, sexual assault and stalking as well as the procedures for institutional disciplinary action in cases of alleged sexual harassment, 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 members 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 in any of its education, employment, or service activities. BGSU prohibits sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation, and violation of mutual restrictions on contact between the parties (collectively, “Prohibited Conduct.”)

BGSU has adopted this policy to express its commitment to: prevent Prohibited Conduct and address its effects should it occur; restore or preserve equal access to the university’s education programs and activities;

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 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.

(B) Policy Scope

- (1) This Policy applies to BGSU students and employees in a BGSU education program or 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 or in any building owned or controlled by a Registered Student Organization.
- (3) BGSU also has jurisdiction when Prohibited Conduct occurs off campus (including online or electronic conduct) in the United States if it occurs in connection with a BGSU education program or activity, including BGSU-sponsored research or internship programs or any other location, event, or circumstance in which BGSU exercised substantial control over both the respondent and the context in which the Prohibited Conduct occurred.
- (4) Registered 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 restore or preserve equal access to the university’s education program or activity.

(C) Sources of Assistance

- (1) BGSU wants every student or employee 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 or employee 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
The Center for Violence Prevention and Education (confidential)	419-372-7227
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 Hayes 207 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 resources, contact the Associate Dean at 419-372-0664.
- (5) 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.

(a) Confidential Resources

Confidential resources are professionals who are required by law to protect confidentiality or assigned as a confidential resource by BGSU. 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 Center for Violence Prevention and Education, 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.

(b) 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) Supportive Measures

- (1) Supportive measures are 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 formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to BGSU's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or BGSU's educational environment. BGSU provides supportive measures 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 measures typically are kept in place until the matter is resolved but may be extended when warranted.
- (2) 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.
- (3) The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. A complainant or respondent may meet with the Title IX Coordinator to discuss the adequacy or need for supportive measures.
- (4) BGSU 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 BGSU to provide the supportive measures.
- (5) Implementation of supportive measures does not mean or suggest that BGSU has made any decision about the merits of the report.

(E) Emergency Removal

BGSU may remove a respondent from any BGSU education program or activity on an emergency basis, provided that BGSU first 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 sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This section does not limit BGSU's ability to suspend a respondent under Ohio Rev. Code § 3345.22 or other applicable law.

(F) Administrative Leave

BGSU may place a non-student employee respondent on administrative leave during the pendency of the university resolution procedure described in this Policy and any subsequent processes.

(G) Reporting Options and Mandatory Reporting

- (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) Amnesty to Students When Reporting Prohibited Conduct

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.

- (3) 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);
- (vi) Erie County Sheriff's Department: (419) 625-7591 (non-emergencies at Firelands campus).

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.

(b) Reporting to the university

An individual may make a report directly to the Title IX Coordinator in 207 Hayes Hall by email to titleix@bgsu.edu, by regular mail, by telephone at (419) 372-7751, or in person at the Office of Title IX. An online report form may be found on the BGSU website by visiting the Title IX or the Office of Human Resources pages.

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 Violence Prevention and Education, for Firelands, the Associate Dean of Students, and the BGSU Police Department, will help individuals with reporting.

(4) 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.

Depending on the circumstances, such as the unavailability of witnesses and the university's relationship to the respondent, 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.

(5) Reporting by BGSU Employees and Others

(a) Mandatory Reporters

A "mandatory reporter" must immediately report any information about suspected Prohibited Conduct to the Title IX Coordinator. A mandatory reporter who fails to make a timely report may be subject to appropriate discipline. 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 Registered 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 Diversity and Belonging;
- (xiii) All staff and graduate students working in the Office of the Dean of Students;
- (xiv) All staff and graduate students who work for Intercollegiate Athletics (including Assistant Coaches and other volunteers within Athletics);

- (xv) 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);
- (xvi) 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.

(b) Training

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

(c) 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.

(6) 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.
- (7) Questions about “mandatory reporter” status should be directed to the Office of General Counsel at (419) 372-0464.

(H) Prohibited Conduct

Prohibited Conduct includes the following acts: sexual harassment, sexual assault, stalking, dating violence, domestic violence, retaliation, and violation of mutual restrictions on contact between the parties. This Policy applies to Prohibited Conduct regardless of the sex, sexual orientation, and/or gender identity or gender expression of the complainant or respondent.

Suspected incidents of child abuse (including incidents of suspected child sex abuse) must be reported to Children’s Services by calling the child abuse hotline at 419-354-9669 or 1-866-860-4136. Contact the BGSU Police Department with any questions about matriculated students under the age of eighteen.

Each act of Prohibited Conduct is specifically defined below, along with the related subjects of consent and incapacitation:

(1) Sexual Harassment

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

- (a) A BGSU employee conditioning the provision of an aid, benefit, or service of BGSU on an individual’s participation in unwelcome sexual conduct;
 - (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to any BGSU education program or activity;
- or

(c) Is “sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined in this Policy and applicable federal law.

(2) Sexual Assault

Sexual assault includes the following:

- (a) 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.
- (b) Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim.
- (c) Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (d) Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

(3) Stalking

The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others; or suffer substantial emotional distress.

For the purpose of this definition –

- (a) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method device (including cyberstalking), or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

- (b) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
- (c) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

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

(4) Dating Violence

The term “dating violence” means violence committed by a person—

- (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) 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 relationship; the frequency of interaction between the persons involved in the relationship.

(5) Domestic Violence

The term “domestic violence” means 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;

- (d) 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
- (e) 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.

(6) Retaliation

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or 34 CFR Part 106, 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 this policy.

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 or this 34 CFR Part 106, constitutes retaliation. The exercise of rights protected under the First Amendment does not constitute retaliation.

BGSU will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute (20 U.S.C. 1232g), FERPA regulations (34 CFR Part 99), as required by law, or to carry out the purposes of 34 CFR Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Retaliation is Prohibited Conduct. A formal complaint alleging retaliation may be filed according to this policy.

(7) Violation of Mutual Restrictions on Contact Between the Parties

Failure to comply with mutual restrictions on contact between the parties is a separate and independent violation of this Policy.

(8) 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) A person who is incapacitated may not give consent.
- (d) Consent must be voluntarily given. It cannot be obtained through coercion or force.
 - (i) 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.
 - (ii) Force is the use of physical action, strength or violence to compel a person to participate in sexual activity
- (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 respondent knew, or reasonably should have known, when all the relevant circumstances are considered.

(9) 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.

(I) Impartiality and Training Requirements

The Title IX Coordinator and Deputy Coordinators, the members of the Title IX and Sexual Misconduct Board, each investigator, and any person designated by a recipient to facilitate an alternative informal resolution process, must not have a conflict of interest or bias for or against complainants or respondents generally or any individual complainant or respondent.

The Title IX Coordinator and Deputy Coordinators, the members of the Title IX and Sexual Misconduct Board, each investigator, and any person designated to facilitate an alternative informal resolution process must receive training on: the definitions of sexual harassment and Prohibited Conduct in this policy and in 34 CFR § 106.30; the scope of BGSU's education programs and activities; how to conduct an investigation and resolution process including hearings, appeals, and informal resolution processes, as applicable; and on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

The materials used to train the Title IX Coordinator and Deputy Coordinators, the members of the Title IX and Sexual Misconduct Board, each investigator, and any person designated by a recipient to facilitate an alternative informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment and Prohibited Conduct.

All members of the Title IX and Sexual Misconduct Board, including anyone who will serve as the Chair of a hearing panel, 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.

All investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

(J) Intake Process and Formal Complaint

Promptly after learning of a report of Prohibited Conduct, the Title IX Coordinator or designee will contact the complainant confidentially to discuss the availability of supportive measures with or without the filing of

a formal complaint. The Title IX Coordinator will consider the complainant's wishes with respect to supportive measures and will implement supportive measures in accordance with Section (D) of this policy.

The Title IX Coordinator or designee will also explain to the complainant the process for filing a formal complaint. If the conduct reported to the Title IX Coordinator or designee does not appear to be Prohibited Conduct within the scope of this policy, any information gathered during the intake process may be reported to the Office of the Dean of Students or other appropriate authority and the complainant may be referred there without affecting the complainant's right to choose to file a formal complaint.

A formal complaint is a document filed by a complainant alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment. The formal complaint must state that, at the time of its filing, the complainant is participating in or attempting to participate in a BGSU education program or activity.

The document may be a paper or electronic submission that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the formal complaint. A complainant may file a formal complaint with the Title IX Coordinator in person, by mail, by e-mail to <http://www.bgsu.edu/titleix>, or through the BGSU online report form found on the BGSU website by visiting the Title IX or the Office of Human Resources pages.

A complainant may also choose not to file a formal complaint. If so, BGSU will provide supportive measures but not investigate 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.

The Title IX Coordinator (after consulting with the Chief Diversity and Belonging Officer or designee) may determine that, despite a complainant's request, a formal complaint is required to ensure the complainant's health and safety or that of the university community. If the Title IX Coordinator makes and documents that determination, the Title IX Coordinator may then sign and file a formal complaint. Signing and filing a formal complaint does not make the Title IX Coordinator a complainant or a party during the resolution process: the Title IX Coordinator must continue to comply with

requirements for Title IX personnel to be free from a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

(K) University Resolution Processes after a Formal Complaint

BGSU uses two processes to resolve formal complaints of Prohibited Conduct under this Policy. Formal resolution is by an investigation that will result in a hearing (unless the formal complaint is dismissed) and possible sanctions and may involve an appeal. Alternative resolution is by informal or restorative methods and may be offered by the university or requested by the complainant or respondent at any time after the formal complaint is filed, unless the formal complaint alleges Prohibited Conduct by an employee against a student.

This section addresses formal resolution and appeals. Informal resolution is addressed in Section (L).

(1) The Formal Resolution Process

The formal resolution process involves notice of allegations, investigation, a preliminary report and final report, a live hearing and written determination, and possible sanctions and appeal. Each of these steps is described below.

(a) Notice of Allegations

After receiving a formal complaint, the Title IX Coordinator will provide written notice to all known parties. The notice will include the following:

- (i) Information about the formal resolution process, the informal resolution process, and where to find this policy.
- (ii) Information about the allegations, including identities of the parties involved in the incident, if known; the conduct allegedly constituting Prohibited Conduct; and the date and location of the alleged incident, if known; this information must be provided in sufficient time to

allow the respondent to prepare a response before any initial interview.

- (iii) 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.
- (iv) A statement that each party may have an advisor of their choice, who may be, but is not required to be, an attorney.
- (v) A statement that each party and their advisor may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint.
- (vi) A statement advising the parties of any provision in this policy, the Code of Student Conduct, or any other university policy, that prohibits knowingly making false statements or knowingly submitting false information during the formal resolution process.

(b) Revised Notice

During the course of the investigation, the university may decide to investigate allegations about the complainant or respondent that were not included in the notice originally provided. If that occurs, BGSU will provide notice of the additional allegations to the parties whose identities are known.

(c) Investigation

An investigation must give the complainant and respondent a full, equal, and fair opportunity to be heard and to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. 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 appropriate), any trained staff member, or an external investigator to be selected and assigned in consultation with the Chief Diversity and Belonging Officer, the university's President, and the Office of General Counsel (if applicable).

The investigator typically will separately interview the complainant, the respondent, and available witnesses; record the interviews; 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). BGSU will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

Before any interview or other meeting, the investigator will give written notice to the party whose participation is invited or expected. That notice will state the date, time, location, participants, and purpose of the interviews or other meetings, and will be given with sufficient time for the party to prepare to participate.

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

Although the complainant or respondent may provide materials to the investigator, it is the university's duty to gather relevant information that is reasonably available.

(i) The Role of the Investigator

Each person serving as an investigator must be impartial and have no conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. There will be a primary investigator who will serve as the lead investigator. This person may be assisted by one or more secondary investigators.

A complainant or respondent 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 complainant or respondent. But upon request, an investigator may identify campus support resources for the complainant and respondent and refer them to the Office of the Dean of Students to coordinate services.

(ii) 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.

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

Each investigation and hearing is a neutral, fact-gathering process in which the respondent 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 respondent 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 evidence and reasonable inferences from that evidence, the respondent is more likely than not in violation of this Policy. This standard is to be used for all formal complaints of sexual harassment (including where employees and faculty are respondents).

(iv) Participation is Voluntary

The complainant, respondent, and witnesses may choose whether or not to participate in the investigation. Even if a

complainant or respondent 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 evidence that is available.

(v) Expectation of Truthful Information

BGSU expects the complainant, respondent, witnesses, and all others to provide truthful information in any proceeding under this Policy. Knowingly providing a materially false statement or other information may result in disciplinary action under the Code of Student Conduct or other applicable Policy.

(vi) Acceptance of Responsibility

The respondent may decide to accept responsibility for the Prohibited Conduct at any time. If so, then with the voluntary agreement of the complainant, the Title IX Coordinator will refer the matter to an alternative resolution process, which is described in Section (L) of this Policy.

(vii) Advisors

The complainant and respondent may each have one advisor of their choice throughout the formal resolution process. The advisor may be, but is not required to be, an attorney. The university will not be responsible for professional fees of any advisor.

The role of the advisor is to provide support and guidance and, at the hearing, to directly ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. An advisor may not be a witness or have any other role in the process except as stated in this policy.

An investigative interview or meeting or hearing will not be postponed to accommodate the schedule of a party's chosen advisor. If a party's chosen advisor is not present at the hearing, BGSU will choose an advisor for that party (without

fee or charge) to conduct cross-examination on behalf of that party.

(viii) 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 complainant and respondent, 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. For purposes of the preliminary and final reports, 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).

The university 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 university obtains that party's voluntary, written consent to do so for the formal resolution process. 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 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.

(ix) The Respondent's Prior or Subsequent Conduct

A respondent's prior or subsequent conduct will not be used to prove that the respondent 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 respondent's motive for taking an action. To that extent, evidence of a pattern of substantially similar Prohibited Conduct by the respondent (regardless of any other finding of a Policy violation) may be deemed relevant to the matter under investigation.

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

(x) Prior Sexual Contact between the Complainant and the Respondent

Prior sexual contact between a complainant and a respondent 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.

(xi) 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 unless relevant.

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 complainant and the respondent 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.

(xii) 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.

(xiii) Time for Completion of Investigation

The period from the start of an investigation, which begins with the investigator's notice to the respondent, 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); the absence of a party or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; 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.

(xiv) Preliminary Report

After interviewing the complainant and the respondent, 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 complainant's statement, the respondent's statement, and 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 complainant the respondent, and their respective advisors (if any) for review and comment. In addition, the investigator will provide the parties and their advisors any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the university 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 the final investigation report.

The preliminary report and evidence will be provided electronically or in a hard copy. Each party will have ten (10) calendar days from the date the preliminary report is shared to submit a written response, which the investigator will consider before completing the final investigation report.

If a party 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 two (2) business days to review and comment on it before writing the final report.

(xv) Final Investigation Report; Dismissal or Further Proceedings

After all review and comment periods have ended, the investigator will write a final investigation report. The final investigation report will fairly summarize the relevant evidence and include the investigator's findings and a summary of the investigator's rationale for those findings.

If the final investigation report determines that the conduct alleged in the formal complaint would not constitute Prohibited Conduct even if proved, did not occur in a BGSU education program or activity, or did not occur against a person in the United States, then the university will dismiss

the formal complaint with regard to that conduct for purposes of this policy.

The Title IX Coordinator may dismiss the formal complaint, or any allegations in the formal complaint, if at any time during the investigation or hearing any of the following occur: the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations in it; the respondent ceases to be enrolled at or employed by the university; or specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

A dismissal will not preclude action under another applicable university policy or code of conduct. For example, if alleged conduct by a student would constitute a violation of the Code of Student Conduct, the matter will be referred to the Office of the Dean of Students, and if alleged conduct by an employee would violate any university policy, the matter will be referred to the Office of Human Resources or other appropriate authority.

If the formal complaint or any allegations are dismissed, the Title IX Coordinator will promptly and simultaneously send written notice to the parties advising them of the dismissal and the reasons for it.

If the formal complaint is not dismissed, 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 final investigation report will then move forward for adjudication accompanied with a conduct resolution record (CRR).

The Title IX Coordinator will simultaneously provide a written notice of the outcome of the investigation and a copy of the final investigation report to the complainant and respondent and their respective advisors (if any) at least ten (10) days before the scheduled hearing for their review and

written response. The notice will include a scheduled meeting with each party to provide information about next steps, which may include information on an alternative resolution process and will include information on a full Title IX and Sexual Misconduct Board hearing. Information about appeals will be provided at designated points in the process.

(d) Acceptance of Responsibility or Hearing

After the respondent has reviewed the final report, the respondent may request referral to an alternative resolution process, subject to the complainant's voluntary agreement of the complainant, unless the respondent is an employee and the complainant is a student. (Under 34 CFR § 106.45, informal resolution cannot be used to resolve an allegation that an employee sexually harassed a student). In all other cases, the Office of the Dean of Students will convene a hearing before a panel of the Title IX and Sexual Misconduct Board.

Each academic year, the university will appoint a Title IX and Sexual Misconduct Board consisting of no fewer than ten, no more than twenty members to be appointed by the Chief Diversity and Belonging Officer in consultation with the university President. Members of the Title IX and Sexual Misconduct Board will receive annual training in accordance with Section (I) of this policy. Each member will serve for a minimum of two years unless removed sooner by the Chief Diversity and Belonging Officer. Members may be asked to remain on the Board beyond two years.

(i) Prehearing Procedure

When a case is scheduled for hearing before a panel of the Title IX and Sexual Misconduct 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 Title IX and Sexual Misconduct Board members who will comprise the hearing panel.

The university may consolidate formal complaints as to allegations of sexual harassment 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 sexual harassment arise out of the same facts or circumstances.

If a selected member has direct, firsthand knowledge of the case, is personally acquainted with the complainant or respondent, 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, which cannot occur sooner than ten (10) calendar days after the final investigation report was sent to each party and advisor. At least five (5) calendar days before the hearing date, the Associate Dean of Students will give written notice to the complainant and the respondent and their respective advisors (if any).

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 complainant and respondent must each submit a list of witnesses, provide copies of any documents the party intends to present (including any written impact or mitigation statements), 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 respondent 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 complainant and the respondent.

(ii) Hearing Procedure

The hearing will be live and audio-recorded. The live hearing may be conducted with all parties physically present in the same geographic location or, at the university'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 recording is university property and shall be an education record of a student complainant and a student respondent. The university will make the recording available to the parties for inspection and review.

The university expects that the complainant and the respondent will each be present and available for the entire live hearing. The complainant and respondent need not be present in the same room. At the request of either party, the university will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the hearing panel and parties to simultaneously see and hear the party or the witness answering questions.

The Chair will exercise control over the proceedings. The Chair is also permitted to ask questions.

Formal rules of evidence will not apply.

The hearing panel may only consider relevant evidence. Prior conduct history of any party or witness may be considered if relevant.

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.

During the hearing, each party may refer to any relevant evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint (including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source), including for purposes of cross-examination.

The Chair will determine whether evidence is relevant.

The members of the hearing panel and the investigator may ask questions directly to each witness. Each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. This cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. If a party does not have an advisor present at the live hearing, the university will provide an advisor of the university's choice to conduct cross-examination on behalf of that party.

The Chair may disallow any question that seeks information that is not relevant. Before a complainant, respondent, or witness answers a cross-examination or other question, the Chair must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Each witness (other than the complainant and the respondent) will be excluded from the hearing while another witness speaks before the hearing panel.

No witness may be compelled to answer a question; provided, however, that if a party or witness does not submit to cross-examination at the live hearing, the hearing panel

must not rely on any statement of that party or witness in reaching a determination regarding responsibility. The respondent may choose to speak on their own behalf or remain silent. The hearing panel 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.

The hearing panel will 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.

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

The second person who may present evidence to the hearing panel is the complainant.

The third person who may present evidence to the hearing panel is the respondent.

After the investigator, the complainant, and the respondent have each had the opportunity to present evidence to the hearing panel, the Chair will allow each of them to ask concluding questions of each other (directly or through an advisor as applicable). Finally, the Chair will allow the hearing panel to ask concluding questions of the investigator, the complainant, and the respondent.

The hearing will end after the concluding questions. The hearing panel will consider the Prohibited Conduct presented in the final investigation report. While presuming that the respondent is not responsible, the hearing panel will deliberate on the evidence presented at the hearing. The hearing panel will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and will not base its credibility determinations on a person's status as a complainant, respondent, or witness.

Written impact or mitigation statements, if any, will be received at the hearing but not considered until after a responsibility determination is made.

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

Relevant evidence presented at the hearing may indicate that the respondent committed an act prohibited by the Code of Student Conduct. If so, and if a majority of the hearing panel agrees that a preponderance of the evidence compels the conclusion that the respondent committed an offense under the Code of Student Conduct, it will find the respondent to be responsible for that offense.

(e) Hearing Outcome and Student-Respondent Sanctions

If the Title IX and Sexual Misconduct Board hearing panel finds a student respondent to be responsible for Prohibited Conduct or an offense under the Code of Student Conduct, that same panel will review any written impact or mitigation statements and deliberate and determine sanctions. The purposes of sanctioning are to end Prohibited Conduct (or other offenses); restore or preserve equal access to the university's education program or activity; 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 (or other offense) under consideration, and determined sanctions for a student respondent, it will set forth its outcome together with an explanation of the majority's reasoning in a written determination and will submit it to the Office of the Dean of Students within five (5) calendar days of the conclusion of the hearing.

The written determination will include the following:

- (i) Identification of the allegations potentially constituting Prohibited Conduct or a Code of Student Conduct offense;
- (ii) A description of the procedural steps taken from the receipt of the formal 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;
- (iii) Findings of fact supporting the determination;
- (iv) Conclusions regarding the application of this policy (or the Code of Student Conduct) to the facts;

A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- (v) Any disciplinary sanctions the hearing panel imposes on the student respondent, and whether remedies designed to restore or preserve equal access to a BGSU education program or activity will be provided by the recipient to the complainant; and
- (vi) The procedures and permissible bases for the complainant and respondent to appeal.

The Office of the Dean of Students will simultaneously provide a copy of the hearing panel's written determination to the complainant and respondent.

If the respondent is an employee of the university and not also a student, the Office of the Dean of Students will also provide a copy of the hearing panel's written determination to the Office of Human Resources (for classified and administrative staff employees) or the Office of the Provost (for faculty). Any further proceedings will take place in accordance with university policies and procedures and any applicable collective bargaining agreement, and any disciplinary sanction will be imposed by the appropriate decisional authority.

As noted below, if the respondent is a student employee of the university, one of the sanctions imposed by the hearing panel may be a prohibition or limitation of university employment.

(f) Potential Sanctions for Student Respondents

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 respondent or the university community;
- (viii) Educational project: Completion of a project designed to help the respondent 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.

(2) Appeals

(a) Basis for an Appeal

The complainant and respondent each may appeal from a determination regarding responsibility and from the dismissal of a formal complaint or any allegations in it, on the following bases:

- (i) Procedural irregularity that affected the outcome of the matter.
- (ii) 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.
- (iii) The Title IX Coordinator, investigator(s), or a member or members of the hearing panel 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.

(iv) The disciplinary sanction imposed on the respondent was clearly inappropriate and/or disproportionate to the conduct for which the respondent was found responsible.

(b) Procedure on Appeal

(i) Appeal of a Dismissal

Either party may appeal the dismissal of the formal complaint or any of its allegations, by providing a written notice of appeal to the Chief Diversity and Belonging Officer within five (5) calendar days of the date the written notice of the dismissal is provided.

A notice of appeal shall consist of a plain, concise, and complete written statement outlining the basis for appeal and all relevant information supporting the appeal. The Chief Diversity and Belonging Officer may impose page limits for all appeal statements.

The Chief Diversity and Belonging Officer will simultaneously provide the notice of appeal to the other party, who will have three calendar days to respond to that Officer in writing. All appeal documents from each party will be considered together in the appeal. If an appeal contains new evidence that was not available at the time of the hearing, the new evidence will be provided to the other party along with notice of appeal.

(ii) Appeal of a Dismissal Decided by the Chief Diversity and Belonging Officer

The Chief Diversity and Belonging Officer will conduct the review of the appeal of a dismissal.

The scope of the review will be limited to the grounds for appeal that the appealing party identified in their appeal statement.

The Chief Diversity and Belonging Officer will consider only the following documents: the Title IX Coordinator's written notice to the parties advising them of the dismissal and the reasons for it and the parties' written appeal submissions.

The Chief Diversity and Belonging Officer may freely consult with the Associate Vice President for Student Affairs, the Office of General Counsel, and other university administrators in deciding the appeal of the finding or the sanction.

The Chief Diversity and Belonging Officer may affirm the dismissal or reject it and send the matter back for further action. The decision of the Chief Diversity and Belonging Officer will be written and will describe the result of the appeal and the rationale for the result. The decision is final and unreviewable.

(iii) Appeal of the Hearing Panel Determination

A complainant and a student respondent may appeal the hearing panel's written determination by providing written notice to the Office of the Dean of Students within five (5) calendar days of the date the hearing panel's written determination is provided to the parties.

A notice of 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 evidence that was not available at the time of the hearing, the new evidence will be provided to the other party along with notice of appeal.

(iv) Appeal of the Hearing Panel Determination Decided by the Dean of Students

The Dean of Students will conduct the review of the appeal of the hearing panel's written determination.

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 hearing panel's written determination, the recording of the hearing, the parties' written appeal submissions, the sanctioning determination, and any impact or mitigation statements.

The Dean of Students may freely consult with the Associate 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.

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

- (a) Affirm the decision that was appealed;
- (b) Reject the decision that was appealed and send the matter back for further action; or
- (c) Modify the sanction

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 will be written and will describe the result of the appeal and the rationale for the result. The decision is final and unreviewable.

The Office of the Dean of Students will simultaneously provide the decision to the parties.

(L) Alternative Resolution

Alternative resolution is structured interaction between or among the parties affected by reported Prohibited Conduct. It is entirely voluntary. No one is required to participate in alternative resolution, it may not be offered unless a formal complaint is filed, and it cannot be used to resolve allegations that an employee sexually harassed a student or if a determination regarding responsibility has been made. But if those conditions are met, an informal alternative resolution process, such as mediation, can afford the parties an opportunity to reach their own agreed resolution without a full investigation and adjudication.

The goal of every form of alternative resolution is to restore or preserve equal access to the university's education program or activity in a way that meets the expressed preference of the complainant while serving the safety and welfare of the campus community.

(1) Alternative Resolution Notice

If either party expresses an interest in alternative resolution, the Title IX Coordinator will first consult the other party. If the other party is willing to attempt alternative resolution, the Title IX Coordinator will provide a written notice to the parties including the following:

- (a) The allegations;

- (b) The requirements of the alternative resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
- (c) A statement advising the parties that, at any time prior to agreeing to a resolution, any party has the right to withdraw from the alternative resolution process and resume the formal resolution process with regard to the formal complaint;
- (d) Any consequences resulting from participating in the alternative resolution process, including the records that will be maintained or could be shared; and
- (e) A signature line for each party's voluntary, written consent to the alternative resolution process.

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

(2) Principles Common to all Forms of Alternative Resolution

Because alternative resolution is always voluntary, either the complainant or the respondent 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 complainant or a respondent to engage in any form of alternative resolution or to directly confront each other.

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.

(3) Restorative Justice Principles

Alternative resolution may include restorative justice principles that are designed to allow the respondent to accept responsibility for their misconduct and acknowledge harm to the complainant 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 complainant and the respondent 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 complainant and other affected persons to meet with a respondent 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.

(4) 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. Alternative resolution cannot be used to resolve an allegation that an employee sexually harassed a student. As part of the review, the Title IX Coordinator will ensure that the parties' 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.

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.

(5) Agreement Reached By Alternative Resolution

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

The Title IX Coordinator will review the written 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 respondent 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 will be referred to the Title IX Coordinator for return to the formal resolution process.

(M) 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.

(N) Records Retention

BGSU will adopt a records retention schedule to retain the following records for a period of seven years:

- (1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript of a hearing, any disciplinary sanctions imposed on the respondent, and any

remedies provided to the complainant designed to restore or preserve equal access to any BGSU education program or activity;

- (2) Any appeal and the result therefrom;
- (3) Any informal resolution and the result therefrom;
- (4) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, which shall also be posted on a BGSU website; and
- (5) Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, BGSU must 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 each BGSU education program or activity. If BGSU does not provide a complainant with supportive measures, then it must 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 BGSU in the future from providing additional explanations or detailing additional measures taken.

(O) Policy Review

This Policy is maintained and administered by the Office of Title IX. 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.

(P) 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 28, 2020