

Central State University Discrimination, Harassment, Sexual Misconduct and Retaliation Policy

POLICY

Central State University is committed to providing an environment that is free from sexual misconduct, retaliation, harassment and discrimination based on race, creed, color, national or ethnic origin, ancestry, religion, sex, disability, age, marital status, sexual orientation, gender identity, genetic information, and military or veteran status in accordance with local, state and federal laws. As members of the Central State community, students and employees are expected to live the University's three tenets of Service, Protocol and Civility®. Discrimination and harassment are not consistent with the three tenants, undermine a healthy learning working and living atmosphere, and contravene the compelling priorities of Central State University. Acts of discrimination, harassment, sexual misconduct, and retaliation will be addressed consistent with this policy.

DEFINITIONS

“Discrimination” means conduct that is based on race, creed, color, national or ethnic origin, ancestry, religion, sex, disability, age, marital status, sexual orientation, gender identity, genetic information, and military or veteran status that excludes an individual from participation; denies the individual benefits; treats the individual differently; or otherwise adversely affects a terms or conditions of the individual's employment, education, living condition, or participation in a University program or activity.

“Harassment” means conduct that is based upon an individual's race, creed, color, national or ethnic origin, ancestry, religion, sex, disability, age, marital status, sexual orientation, gender identity, genetic information, and military or veteran status which is physically threatening, harmful or humiliating or creates a hostile environment. Harassment does not have to include an intent to harm, be directed at a specific target, or involve repeated incidents.

“Sexual Harassment” means unwelcome conduct including sexual advances, request for sexual favors or other physical or verbal conduct of a sexual nature including sexual assault.

A. **Quid Pro Quo harassment:** This type of harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment, or participation in a University activity are either explicitly or implicitly conditioned upon submission to or rejection of unwelcome sexual advances or sexual favors or such submission or rejection is a factor in decisions affecting employment, educational benefits, academic grades or opportunities, living environment, or participation in a University activity.

B. **Hostile Environment Harassment:** A hostile environment is created when conduct is sufficiently serious both objectively and subjectively to limit a person's ability to participate in or benefit from University programs, services, opportunities or employment.

“Sexual Misconduct” means conduct which includes sexual assault, inducing incapacitation for sexual purposes, sexual exploitation, relationship violence, stalking, and intimidation.

“Sexual Assault” means an actual or attempted sexual contact with another person without that person’s consent including sexual contact or intercourse when the victim is unable to consent, or intentional or unwelcome touching of another’s intimate body parts (genital area, groin, inner thigh, buttocks or breast), or sexual intercourse without consent.

“Consent” means informed, freely given and mutual agreement to engage in sexual activity. Someone who is incapacitated cannot consent. Incapacitation can include being under the influence of drugs or alcohol, being asleep, unconscious, or having an intellectual or other disability that prevents the victim from having the capacity to give consent. Past consent does not imply future consent. Silence or the absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Any use of coercion, force, duress, deception, or threat of force to obtain consent invalidates consent.

“Inducing incapacitation for sexual purposes” means the use of drugs, alcohol, or other means with the intent to affect or having actual effect on the ability of the individual to consent or refuse to consent to sexual contact.

“Relationship Violence” means dating or domestic abuse or violence between partners or former partners whether residing in the same household or not which involves battering that causes bodily injury, purposely or knowingly causing reasonable apprehension of bodily injury, emotional abuse creating apprehension or bodily injury or property damage or stalking.

“Stalking” means repeatedly following, harassing, threatening or intimidating another by telephone, mail, electronic communication, social media or any other action, devise or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

“Sexual Exploitation” means taking non-consensual or abusive sexual advantage of another for anyone’s advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Offenses include but are not limited to, prostituting another person; non-consensual visual or audio recording of sexual activity and/or distribution of such visual or audio media; voyeurism or permitting voyeurism; exposing oneself or inducing others to expose themselves; or possessing, distributing, viewing or forcing others to view illegal pornography.

“Retaliation” means any action taken by an accused individual or a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding into any practice forbidden by this policy. This includes any action taken by a bystander who intervened to stop or attempt to stop discrimination, harassment or sexual misconduct.

REPORTING

The law prohibits discrimination, harassment, sexual misconduct or retaliation between members of the University community including students, faculty, staff, applicants, and campus guests. This policy applies to all University programs and employment on or off campus. It is central to the values of Central State University that any individual who believes s/he may have been the target of unlawful discrimination, harassment, sexual misconduct or retaliation feel free to report his or her concerns for appropriate investigation and response without fear of retaliation or retribution.

All complaints or concerns about conduct that may violate this policy should be filed with the following offices or officials:

Students, applicants, and student and other guests:

TITLE IX COORDINATOR

For students:

Ms. Karla Harper
1400 Brush Row Road
P.O. Box 1004
Wilberforce, Ohio 45384
Phone: 937-376-6421
kharper@centralstate.edu

TITLE IX DEPUTY COORDINATORS

For faculty, staff and visitors:

Evelyn Gordon
Interim Director, Human Resources
1400 Brush Row Road
P.O. Box 1004
Wilberforce, Ohio 45384
Phone: (937) 376-6018
EGordon@centralstate.edu

For Athletics:

LaShaunta Jones
Senior Women's Administrator in Athletics
1400 Brush Row Road
P.O. Box 1004
Wilberforce, Ohio 45384
Phone: (937) 376-6617
LJones@centralstate.edu

In order to enable the University to respond effectively and stop instances of harassment, discrimination, sexual misconduct, and retaliation, all University employees MUST report any information they have about alleged or possible sex-based discrimination, sexual harassment, or sexual misconduct involving a student or students to the Title IX Officer within 24 hours of receiving the information. Failure to comply with this reporting requirement could result in disciplinary action up to and including termination. Employees who are statutorily prohibited from reporting such information are exempt from these reporting requirements including licensed health care professionals, counseling services, and interfaith ministries.

OFF CAMPUS CONDUCT AND SUPPORTIVE SERVICES

Off campus conduct can be the subject of a complaint or report and will be evaluated on an individual basis to determine whether the policy has been violated. Regardless of whether the policy has been violated, supportive services are available to any victim of discrimination, harassment, or sexual misconduct which occurred on or off campus whether or not the conduct was conducted by a member of the University community.

SANCTIONS AND CORRECTIVE ACTION

Violation of the policy will be addressed through the Student Code of Conduct for students; and the ADA and Equal Opportunity Discrimination, and complaint procedures for employees. Violations of the policy may also result in a referral for criminal prosecution depending on the nature of the conduct.

AMNESTY FOR DRUG AND ALCOHOL POSSESSION AND CONSUMPTION VIOLATIONS

The University strongly encourages students to report instances of sex-based discrimination, sexual harassment, sexual misconduct, and retaliation involving students. Therefore, students who report information regarding sex-based discrimination, sexual harassment, sexual misconduct, and retaliation involving students will not be disciplined by the University for any violation of the University's Drug and Alcohol Policy in which they might have engaged in connection with the reported incident.

DISCIPLINARY PROCEDURE FOR DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT AND RETALIATION COMPLAINTS UNDER TITLE IX

This subsection applies to matters in which there is an allegation of discriminatory harassment, retaliation, or sexual misconduct as defined in in the University-wide Discrimination, Harassment, Sexual Misconduct and Retaliation Policy. If there is conflict between the provisions in this subsection and other parts of the Code of Conduct, this subsection will govern.

(i) The University is committed to preventing discrimination, harassment, retaliation, and sexual misconduct in its programs and activities. UT takes prompt and appropriate action to address such violations of the Code of Conduct, prevent their recurrence, and address any effects created.

(ii) Generally, adjudication of discriminatory harassment, retaliation, or sexual misconduct charges will not be delayed due to a pending or potential law enforcement process. The University respects the constitutional rights of the parties and ensures that its actions protect those rights.

(iii) Absent extenuating circumstances, allegations of discrimination harassment, retaliation, or sexual misconduct may be filed no later than one year after the alleged event. Allegations should be filed with: The Title IX Officer or Deputy Title IX Officers, listed in the Student Handbook and on the Student Affairs website. Allegations which are not covered under Title IX will be referred to the appropriate judicial officer and will be addressed under the general student code of conduct procedures rather than this subsection.

(iv) With respect to charges of discrimination, harassment, retaliation, or sexual misconduct, the Complainant and Respondent will be treated equally throughout the process: rights provided to the Respondent will be provided to the Complainant and rights provided to the Complainant will be provided to the Respondent. For example, with respect to those charges, both will receive similar and timely notices and information, and have an equal opportunity to have an advisor of their choice, present witnesses and evidence, review evidence from the investigation, attend and participate in the hearing, and appeal the outcome. The Complainant and Respondent will receive concurrent written notice of the outcome of the discrimination, harassment, retaliation, or sexual misconduct charge, consistent with federal and state law.

(v) The process explained in the Disciplinary Procedures section will apply with the following modifications to charges of discrimination, harassment, retaliation, or sexual misconduct: A decision made under this subsection is appealable by either Complainant or Respondent in accordance with the appeal procedures set forth in this Code of Conduct.

(vi) The University does not use mediation in cases involving allegations of sexual misconduct.

(vii) Charges of discrimination, harassment, retaliation, or sexual misconduct will be heard by a Title IX Adjudication Panel that consists of three trained faculty or staff members. That panel may also hear and determine any other Code of Conduct charges that relate to the discrimination harassment, retaliation, or sexual misconduct charge. Except as explained here, the Title IX Adjudication Panel follows the same procedures and provisions of this policy as the Student Conduct Hearing Board. Parties who believe that a member of the Title IX Adjudication Panel has a conflict of interest that would affect the adjudication of their case may contact the student conduct officer.

(viii) In matters involving allegations of discrimination, harassment, retaliation, or sexual misconduct, the Complainant and Respondent are not permitted to directly cross examine each other. All questions must be posed through the Title IX Adjudication Panel. The Title IX Adjudication Panel will present the question to the opposing party. The Title IX Adjudication Panel generally may not ask a Complainant or Respondent about his or her sexual history with anyone other than the Complainant or Respondent. The Title IX Adjudication Panel may also decline to present questions to a Complainant or Respondent that are in the Title IX Adjudication Panel's discretion not reasonably calculated to lead to relevant evidence.

(ix) If an appeal is filed by Complainant or Respondent relating to a charge of discrimination harassment, retaliation, or sexual misconduct, the other party will be notified of the appeal and of the outcome of the appeal.

(x) Allegations of discrimination, harassment, retaliation, or sexual misconduct generally will be resolved within 60 days of the filing of the complaint. Under certain circumstances (e.g., cases involving complex allegations or intervening school breaks), it may take longer than 60 days to conclude the investigation and adjudication of a complaint. In such instances, the University will update the parties regularly regarding the status of the case.

(xi) The University provides interim remedies to individuals who allege and are affected by discrimination harassment, retaliation, or sexual misconduct. For more information about how to obtain interim remedies and related resources, please contact the Title IX officer, deputy title IX officers, or counseling services. In addition to the range of sanctions set forth in the Code of Conduct, the University provides remedies to complainants and the campus community, as appropriate, following a finding that discrimination harassment, retaliation, or sexual misconduct has occurred.

(xii) Records of this process will be maintained in accordance with the University's records retention schedule for student disciplinary files. The University will comply with FERPA with respect to the records.

(xiii) Complaints under this subsection will be kept confidential to the extent permitted by relevant law. Confidentiality is an aspiration but it is not always possible or appropriate. An individual's request regarding confidentiality will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the University's legal obligation to ensure a working and learning environment that is free from discrimination, harassment and sexual misconduct and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation. Complaints and statements made to counseling services and interfaith ministries will be confidential unless a student signs a written release of information, which may be revoked in writing at any time.