

POLICY NO. 204

Area: General Administration

*Original signature is on file in
Administration and Finance*

Date Adopted: November 14, 2019

Certified By: _____
Dr. Cynthia Jackson-Hammond
President, Central State University

Revisions Approved: _____

Subject: DISCRIMINATION, HARASSMENT, SEXUAL MISCONDUCT AND RETALIATION POLICY

Effective Immediately

POLICY

Central State University is committed to providing an environment that is free from sexual misconduct, harassment, discrimination, and retaliation 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 University community, students and employees are expected to live the University's three tenets of Service, Protocol and Civility®. Sexual misconduct, harassment, discrimination, and retaliation 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 sexual misconduct, harassment, coercion, discrimination, 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 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. There are

two types of sexual harassment:

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, coercion, sexual exploitation, indecent exposure, relationship violence, stalking, and battery.

“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 person or group of people. Consent can be withdrawn at any time. Any use of coercion, force, duress, deception, or threat of force to obtain consent invalidates consent.

The following behaviors are considered sexual misconduct and are criminal actions:

- “Sexual Assault” is any sexual act directed against another person, without their consent, including instances where the person is incapable of giving consent. Examples include:
 - **Rape** – Any non-consensual sexual intercourse, defined as any sexual penetration however slight, with any body part or object by any person upon any person without consent.
 - **Fondling** – The touching of the private body parts of another person (genital area, groin, inner thigh, buttocks or breast) for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical capacity.
 - **Statutory Rape** – Non-forcible sexual intercourse with a person who is under the age of consent.
 - **Incest** – Non-forcible sexual intercourse between persons who are related to each other within the degrees where marriage is prohibited by law.

- “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.
- “Coercion” means the use of force, threat of force, deception or when a person is beaten, threatened, isolated, or intimidated. When a person affirmatively demonstrates that (1) they do not want to have sex, (2) they want to stop any sort of sexual acts, or (3) they do not want to go any further, the other party must stop completely. Continued pressure after that point can be coercive. A person is not required to physically or otherwise resist an aggressor.
- “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.
- “Indecent Exposure” is the exposure of the private or intimate parts of the body in a lewd manner in public or in private when the respondent(s) may be readily observed.
- “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, device, or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.
- “Battery” is intentionally, or negligently, causing physical contact or bodily harm to another person. When this action is taken because of a person’s sex or gender the crime is also prohibited by this policy.

“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, Faculty, Staff and Visitors:

TITLE IX COORDINATOR

Dominique D. Burns, Ph.D., LPC, NCC
Newsom Administration Building
Suite 12, Office 10B
1400 Brush Row Road
Wilberforce, Ohio 45384
Phone: (937) 376-6563 | Fax: (937) 376-6482
Dburns@centralstate.edu

Student-athletes:

TITLE IX DEPUTY COORDINATOR

Tara Owens, Athletic Director
Beacom-Lewis Gymnasium
Office of Athletics
1400 Brush Row Road
P.O. Box 1004
Wilberforce, Ohio 45384
Phone: (937) 376-6288
Towens@centralstate.edu

Faculty, staff and visitors:

TITLE IX DEPUTY COORDINATOR

Tonya Turner, Human Resources Director
Newsom Administration Building
Suite 12
1400 Brush Row Road
P.O. Box 1004
Wilberforce, Ohio 45384
Phone: (937) 376-6018
Tturner@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, when acting in these respective roles at the time the information was disclosed.

JURISDICTION

This policy applies to on-campus conduct, as well as off-campus conduct, academic, educational, co-curricular, athletic, study abroad, and all other University programs and activities. This policy applies to all forms of gender-based misconduct, including pregnancy or marital status-based discrimination. It applies to all Title IX athletics issues and to different treatment based on sex. Students are enrolled from the date they matriculate until the date their degree is conferred.

OFF CAMPUS CONDUCT AND SUPPORTIVE SERVICES

Off campus student 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 student who is a victim of discrimination, harassment, or sexual misconduct which occurred on or off campus whether or not the behavior 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 Sexual Harassment Policy 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.

WHEN A MINOR ENROLLED STUDENT IS INVOLVED

When a report is received involving a student who has not yet reached the age of eighteen:

- The Deputy Title IX Coordinator completes a safety assessment to provide an environment free of harm and to identify the student's legal guardian;
- The student is advised of the University staff member's responsibility to report child abuse as outlined in the Ohio Revised Code section 2151.421;
- A Deputy Title IX Coordinator works directly with the guardian in reviewing the University's policies and protocols regarding sexual misconduct, harassment, discrimination and retaliation, on and off campus resources available to the student, and

seeking the permission to investigate the report;

- The student and guardian are advised of Central State University's policy and practices governing the privacy of student records available at <http://www.centralstate.edu/current/registrar/index11.php?num=8>, and, specifically, that the student's records and decisions transition to the student when they turn eighteen; and
- The student and guardian are advised and given a list of local resources, both internal and external to the University, that provide confidential and anonymous support for individuals, including those who are not yet eighteen, involved in incidents addressed in this policy.

Although this section of the policy speaks directly to underage minors enrolled as students, the expectation of the University is that all employees will refrain from any behaviors or interactions that can be misinterpreted or misrepresented as unprofessional behaviors, regardless of the age of the individual(s) affected.

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 the University-wide Discrimination, Harassment, Sexual Misconduct and Retaliation Policy. If there is conflict between the provisions in this subsection and other policies or procedures, including in the Student 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. CSU 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 above, 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 of the Student Code of Conduct 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. 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.
- ix. 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.
- x. 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.

- xi. 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.
- xii. 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.

RIGHT TO MAKE A LAW ENFORCEMENT COMPLAINT

Those who have experienced an incident of sexual misconduct, relationship violence, or any other type of violence, if they desire, have the ability to pursue criminal charges against the person or persons they believe to have committed the crime. The University's Title IX (and/or Deputy Title IX) Coordinator will assist the student in filing a formal complaint with the University's Campus Police if on-campus or will assist in referring the student to another appropriate police department, if off-campus. If a police report has already been filed, a Title IX Coordinator may assist the student in learning about the status of an investigation.