

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 (including pregnancy), 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®. 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 (including pregnancy), 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 (including pregnancy), 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 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.

"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, device, 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.

PREGNANT AND PARENTING STUDENTS

Title IX of the Education Amendments of 1972 protects from discrimination all pregnant or parenting students. Students who are applying for admission, are admitted, and/or are enrolled in classes and who have a qualifying condition are protected under Title IX and this Policy. Qualifying conditions are pregnancy, complications related to pregnancy, false pregnancy, termination of pregnancy, childbirth, and recovery from any of these conditions.

The University seeks to treat all students equitably, regardless of their actual or potential parental or familial status. It is the policy of the University to provide appropriate, reasonable adjustments to educational programs and activities to support pregnant or parenting students.

A student in need of an educational adjustment should submit a request to the University’s Title IX Coordinator (contact information below). If a student is unable to submit a request because of her condition, the student may have an appropriate representative contact the Title IX Coordinator on the student’s behalf. The student must have previously submitted to the University’s Registrar a FERPA Consent to Release Form authorizing the disclosure to that representative. The student may confirm the educational adjustment request when she becomes able to do so.

An educational adjustment under this Policy may include an excused leave of absence for as long as medically necessary, but generally not to exceed 180 days. A medically necessary leave of absence is an absence from the classroom or extracurricular activities because of a qualifying condition and deemed necessary and documented by an appropriate health care professional. If reasonable, a student will be given extra time to make up course work and tests missing during the leave of absence. Following an approved medically necessary leave of absence, the student shall be allowed to return to the same academic and extracurricular status as before the leave began.

Whether or not it is reasonable to grant a student extra time to make up course work and tests missed will be determined on an individualized basis. Typically, this will involve consultation between the student, the Title IX Coordinator, and the appropriate Dean and/or Department Chair. This determination will usually be based on length of absence requested, and ability of student to complete coursework outside of classroom, among other possible contributing factors. If it is unreasonable for a student to receive extra time to complete a course, the student will be given the option to receive an “I” (Incomplete) or “W” (Withdrawal) from the class without penalty. The Title IX Coordinator may develop other educational adjustments appropriate for students with qualifying conditions when requested.

Central State University prohibits discrimination and harassment on the basis of sex. Pregnant or Parenting Students who believe they have been discriminated against or harassed because of a qualifying condition may file a complaint with the Title IX Coordinator. Complaints of discrimination or harassment under this policy will be processed in accordance with this Policy.

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:

TITLE IX COORDINATOR

Ms. Ariella J. Brown
1400 Brush Row Road
Wilberforce, Ohio 45384
Phone: 937-376-6563
abrown1@centralstate.edu

Student-athletes:

TITLE IX DEPUTY COORDINATOR

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

Faculty, staff and visitors:

TITLE IX DEPUTY COORDINATOR

Gayle Berry, Director, Human Resources
1400 Brush Row Road
Wilberforce, Ohio 45384
Phone: (937) 376-6018
Gbarry@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 Coordinator 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 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 involved in an incident 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.

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 this Policy. If there is conflict between the provisions in this subsection and other parts of 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 should be reported as soon as possible, but no later than one year after the alleged event. Reports will be accepted at any time, but the longer one waits to report, the more challenging it may be to investigate and remedy the allegation(s) due elapse of time (i.e., fading memories of witnesses, graduation or transfer of witnesses and respondents). Allegations should be reported to the Title IX Officer or Deputy Title IX Coordinators listed above and on the University's 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 reports and 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 appropriate 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 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 must contact

the Title IX Coordinator within one (1) day of learning the identity of the Title IX Adjudication Panel member in question.

- (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 appropriate interim measures to individuals who are involved (either as the Complainant, Respondent, or a witness) in a reported incident of discrimination harassment, retaliation, or sexual misconduct. For more information about how to obtain interim measures and related resources, please contact the Title IX Coordinator, Deputy Title IX Coordinators, or counseling services. In addition to the range of sanctions set forth in the Code of Conduct, the University provides remedies and resources 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.