

# **University of Northwestern Ohio Title IX Sexual Harassment Policy**

## **I. Introduction**

Members of the University of Northwestern Ohio (“UNOH” or “the University”) community, guests, and visitors have the right to be free from sex discrimination and sexual harassment. All members of the UNOH community are expected to conduct themselves in a manner that does not infringe upon the rights of others. University students and their organizations are expected to participate in an environment that respects differences of gender, sex, sexual orientation, gender identity, results of genetic testing, race, color, marital status, ethnicity, religion, creed, ancestry, national origin, disability, age, veteran status, service in the military, and any other characteristic protected by applicable federal, state, or local laws. This Title IX Sexual Harassment Policy (“Policy”) reaffirms this expectation and provides recourse to individuals whose rights may have been violated.

Title IX of the Education Amendments of 1972 (“Title IX”) protects students, employees, applicants for admission and employment, and other persons from all forms of sex discrimination, including sexual harassment and discrimination based upon gender identity or failure to conform to stereotypical notions of masculinity or femininity, against a person in the United States.

UNOH maintains a policy of zero tolerance for sexual harassment regardless of the gender, sex, sexual orientation, gender identity, results of genetic testing, race, color, marital status, ethnicity, religion, creed, ancestry, national origin, disability, age, veteran status, service in the military, or other characteristic protected by applicable federal, state, or local laws, of the individuals engaging in sexual activity or other conduct addressed in this Policy. Zero tolerance means the University will respond to all reports of alleged sexual harassment, as described in this Policy. The University’s response is intended to end sexual harassment, prevent its recurrence, and remedy the effects on the complainant and the community to the extent possible.

This Policy prohibits sexual harassment regardless whether the person alleged to have engaged in such harassment is a student, member of UNOH’S faculty or staff, or a campus visitor or other third party. This Policy has a dual purpose: (1) it serves as a measure to determine, after-the-fact, whether the conduct in question contradicted the University’s policies; and (2) it serves as a preventative guide to advise students and others inside and outside the University community of UNOH’S expectations for sexual communication and interaction, responsibility, and respect.

This Policy is intended to supersede the University of Northwestern Ohio’s *Student Code of Conduct* to the extent the *Student Code of Conduct* may conflict with this Policy. Otherwise, this Policy is intended to supplement the provisions contained in the *Student Code of Conduct*, and applies in addition to the policies set forth therein. Every University student is encouraged to read and be familiar with the *Student Code of Conduct* and this Policy.

## **II. Immediate Assistance**

UNOH is committed to providing an environment for work and education that is free from sexual harassment. UNOH encourages any individual who experiences or witnesses any form of sexual harassment to use one or more of the following options:

**A. Seek Medical Assistance**

Contact any of the following:

- St. Rita's Family Medicine at UNOH, 3224 Jarvis Dr., Lima, OH 45807; (419) 996-5757
- St. Rita's Westside Urgent Care; 2195 Allentown Road, Lima, OH 45805; (419) 227-2245
- St. Rita's Medical Center; 730 W. Market St., Lima, OH 45801; (419) 227-2245 (Sexual Assault Nurse (SANE) available)

**B. Assistance from Law Enforcement**

In case of an emergency, individuals should dial 9-1-1.

Make a report to the UNOH Safety Services Office at (419) 998-3167.

\*\* Reports may, and are encouraged to, be made both to law enforcement and UNOH.

NON-EMERGENCY CONTACT INFORMATION FOR OTHER LOCAL POLICE AGENCIES INCLUDES:

- Lima Police Department -- (419) 227-4444
- American Township Police Department -- (419) 331-6788
- Allen County Sheriff's Department -- (419) 227-3535
- Lima Fire Department -- (419) 221-5164
- American Township Fire Department -- (419) 339-3921

**C. UNOH Counseling Center (Confidential)**

UNOH's Counseling Center provides professional counseling services for all UNOH students. As part of the larger University community, the Counseling Center is dedicated to the personal, social, and academic development of all UNOH students. It provides counseling services within a safe, supportive, and confidential environment. Counselors are available Monday through Friday from 9:00 a.m. to 5:00 p.m., as well as after hours for emergency situations.

University of Northwestern Ohio Counseling Center  
13000 Student Commons Building  
Jaclyn Jarvis, Psy.D., Director of Counseling Center

(419) 998-8456  
[jjarvis2@unoh.edu](mailto:jjarvis2@unoh.edu)  
<http://www.unoh.edu/offices/counseling/>

**D. Report to the University**

**Title IX Coordinator for Students**

Danielle McClure, MRC, PC  
(419) 998-3157  
[dmcclure@unoh.edu](mailto:dmcclure@unoh.edu)  
Office is located on the first floor of the 13000 building

**Title IX Coordinator for Employees**

Geri Morris  
(419) 998-3106  
[geri@unoh.edu](mailto:geri@unoh.edu)  
Office is located on the first floor of the 1000 building

See Section VI of this Policy for further information regarding reporting allegations of sexual harassment to the University pursuant to this Policy.

**E. Additional On Campus Resources**

A listing of additional on campus resources at UNOH is included in Appendix A to this Policy and incorporated herein.

**F. Off-Campus Resources**

**Campus Sexual Assault Victim Advocate (Confidential)**

Crime Victim Services  
Phone: (419) 222-8666

A listing of some of the available off-campus resources in the Lima area is included in Appendix A to this Policy and incorporated herein.

**III. Policy Statement**

**A. Title IX Notice of Non-Discrimination**

UNOH is committed to providing an education and work environment that is safe and free from discrimination based upon sex, sexual harassment, and retaliation. UNOH does not discriminate on the basis of sex in the education programs or activities that it operates, and it is required by Title IX and other applicable laws not to discriminate in such a manner. This Policy is intended to be consistent with Title IX, 34 C.F.R. Part 106, Title VII of the Civil Rights Act of 1964 (“Title VII”), and applicable federal, state, and local laws. Title IX is a federal law prohibiting discrimination on the basis of sex. The requirement not to discriminate in UNOH’s programs and

activities extends to admission and employment. Inquiries about the application of Title IX and 34 C.F.R. Part 106 may be referred to UNOH's Title IX Coordinators, the Assistant Secretary for Civil Rights pursuant to 34 C.F.R. Part 106, or both.

### **B. Anti-Discrimination/Sexual Harassment Statement**

UNOH is committed to preventing and responding to reports of unlawful discrimination and sexual harassment and to providing students and employees with a safe campus.

Upon actual knowledge of potential sexual harassment, UNOH will take appropriate and timely steps to respond, eliminate any sexual harassment in existence, provide appropriate supportive measures, and prevent the recurrence of such sexual harassment to the extent possible.

UNOH is committed to using a fair and impartial process that is mindful of the rights of individuals who have complained of sexual harassment or who may be victims thereof and individuals who have been accused of sexual harassment. UNOH recognizes that steps may be necessary to ensure equal treatment of these individuals and that supportive measures may be needed.

The University further recognizes that an individual's involvement in a report of sexual harassment in any capacity may be stressful, difficult, and emotional. At all times from a report of sexual harassment to the filing of a formal complaint through the grievance process, appeals process, and final adjudication, UNOH will make every effort to treat the complainant, respondent, witnesses, and any other involved individuals with respect, dignity, and sensitivity.

If the University determines that sexual harassment has occurred in violation of this Policy, it will impose appropriate disciplinary sanctions and provide the complainant and the campus community with appropriate supportive measures and remedies.

### **C. Jurisdiction and Scope**

This Policy applies to acts of sexual harassment or related retaliation occurring in a UNOH program or activity against a person in the United States, whether or not the sexual harassment or retaliation occurred on University property and regardless of such individual's gender, sex, sexual orientation, gender identity, results of genetic testing, race, color, marital status, ethnicity, religion, creed, ancestry, national origin, disability, age, veteran status, service in the military, or other characteristic protected by applicable federal, state, or local laws. For purposes of this Policy, an off-campus incident of sexual harassment or retaliation between two or more UNOH students and/or employees will be addressed in the same manner as if the incident occurred on campus, if it occurred in a UNOH education program or activity in the United States.

There may be circumstances when the jurisdiction of this Policy limits the scope of or prevents investigation into alleged conduct of a community member, campus visitor, or other third party. Similarly, the full spectrum of supportive measures, sanctions, accommodations, remedies, and resources may be limited in a situation involving a community member, campus visitor, or third party who falls outside this Policy's jurisdiction. In such situations, UNOH may decide not to engage in the formal complaint or grievance processes, but may address the situation and provide

appropriate supportive measures or resources to the individuals involved and, if appropriate, to the UNOH campus. Where a report falls outside the scope of this Policy, UNOH also may choose to respond or address the report under other UNOH's other policies, as applicable.

UNOH intends this Policy to supersede any other policies or portions of other policies that include definitions, provisions, processes, or procedures that may conflict with this Policy. UNOH further intends this Policy to supersede prior versions of this Policy.

UNOH is committed to upholding the requirements of the Constitution of the United States of America to the extent that they apply. This Policy shall not be interpreted to restrict any rights that would otherwise be protected under the First Amendment to the U.S. Constitution or to impinge on or restrict any other constitutional right or privilege, including those set forth in the First, Fifth, and Fourteenth Amendments to the U.S. Constitution.

#### IV. Purpose

Through this Policy, UNOH seeks to comply with and acknowledge its duties under state and federal law to provide a thorough framework for accepting, processing, investigating, addressing, and resolving reports of sexual harassment. UNOH further provides this Policy to inform the UNOH community, including students and employees, as to how to make a report of alleged sexual harassment, how to seek and receive support and assistance, and what to expect from UNOH's formal complaint and grievance process.

#### V. Examples and Definitions

*(See Appendices B and C for additional definitions and examples)*

**“Actual Knowledge”** – Notice of sexual harassment or allegations of sexual harassment to UNOH's Title IX Coordinators or an official with authority, as defined herein. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only UNOH official with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as an official with authority. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in this Policy. “Notice” for purposes of this Policy occurs when a Title IX Coordinator or official with authority witnesses sexual harassment; hears about sexual harassment or sexual harassment allegations from a complainant or a third party; receives a written or verbal report of sexual harassment or sexual harassment allegations; receives a written formal complaint of sexual harassment, or obtains actual knowledge by any other means. UNOH's response obligations under this Policy are not triggered until actual knowledge is conveyed to the Title IX Coordinator or an official with authority as described herein.

**“Based on sex”** or **“On the basis of sex”** – Conduct including but not limited to that which is sexual in nature, conduct which references a person's sex, or conduct which is based on an

individual's gender, sex, gender identity, gender expression, sexual orientation, or results of genetic testing.

**“Complainant”** – An individual who is alleged to be the victim of conduct that could constitute sexual harassment, as defined herein. A person may be a complainant even where no formal complaint has been filed and no grievance process is pending. References to a complainant should be understood to include situations where a parent or guardian has the legal right to act on behalf of the complainant.

**“Consent”** – Consent must be freely given, informed, mutual, and communicated through clearly understandable words or actions, and it may be withdrawn at any time. Consent requires mutual agreement and unambiguous communication regarding the sexual act taking place. An individual cannot provide consent if he or she is physically or mentally impaired or incapacitated such that the individual cannot understand the nature, extent, or fact of the sexual activity or situation. Such impairment or incapacitation includes, but is not limited to, impairment or incapacitation due to alcohol or drug consumption, age, or being unconscious or asleep. Likewise, an individual cannot provide consent if deception, threats, duress, intimidation, or force (express or implied) are used on the individual. The absence of resistance or silence does not necessarily indicate consent. Under this Policy, “no” always means “no,” but “yes” may not always mean “yes.” If an individual consents to some sexual acts, that does not imply consent to other acts. Further, prior consent to sexual acts does not imply ongoing or future consent with the same person or consent to the same sexual act with another person. If an individual takes advantage of a position of authority or influence over another individual, it may be a factor in evaluating consent. An individual may withdraw consent at any time, and, once such withdrawal is expressed, sexual activity must end.

**“Dating Violence”** – Violence committed by an individual who is or was in a social relationship of an intimate or romantic nature with the complainant. To evaluate whether such a relationship exists or existed, factors including the following should be considered: the length of the relationship, the frequency of interaction between the individuals involved in the relationship, and the type of relationship. Dating violence includes, but is not limited to, physical or sexual abuse or the threat of such abuse.

**“Days”** – For purposes of this Policy, “days” means calendar days.

**“Domestic Violence”** – Violence perpetrated by the victim's current or former spouse; intimate partner; person with whom the victim shares a child in common; person cohabitating or formerly cohabitating with the victim as a spouse or intimate partner; or any other person against a youth or adult victim who is protected from such acts under Ohio's family or domestic violence laws.

**“Employee”** – Faculty, staff, or other individuals hired by UNOH in an employment capacity to provide services to UNOH.

**“Formal Complaint”** – A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that UNOH investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a UNOH education program or activity. A formal

complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the Title IX Coordinator's contact information or as otherwise described in this Policy. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by UNOH) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

**"Incapacitation" or "Incapacitated"** – Incapacitation occurs when an individual is unable to provide consent. For example, incapacitation may occur due to use of drugs or alcohol, when a person is unconscious or asleep, or when a mental or physical disability prevents an individual from having the capacity to provide or deny consent. In considering whether an individual is incapacitated due to the consumption or use of drugs or alcohol, UNOH will evaluate the circumstances, including but not limited to the following factors: whether the available evidence demonstrates slurred speech, stumbling, vomiting, inability to walk, or periods of "blacking out." The presence of only one of these factors may be enough to establish incapacitation, depending upon the circumstances, but the presence of one factor alone is not necessarily definitive evidence of incapacitation. Rather, whether an individual was incapacitated must be examined based upon a totality of the circumstances.

**"Official with Authority"** – An official of UNOH who has authority to institute corrective measures on behalf of UNOH and receive actual knowledge under this Policy. For purposes of this Policy, only the following individuals are officials with authority:

Deans College of Applied Technologies: Kevin Meager & Robert (Bob) Marshal  
Dean College of Occupational Professions, Health Professions, and Business: Timothy (Tim) Fitzpatrick  
Director of Safety Services: David (Dave) Desenberg Sr.  
Vice President for Academic Affairs/Provost: Dean Hobler  
Vice President of Student Services: Randy Herrod-Gonzalez

**"Program or Activity" or "Education Program or Activity" or "UNOH Program or Activity"** – Locations, events, or circumstances over which UNOH exercises substantial control over both the respondent and the context in which the alleged sexual harassment occurs, whether on-campus or off-campus, and where the alleged sexual harassment occurs against a person in the United States. Program or activity further includes alleged sexual harassment pursuant to this Policy occurring any building owned or controlled by a student organization that is officially recognized by UNOH.

**"Respondent"** – Any individual who is reported to be the perpetrator of conduct that could constitute sexual harassment. References to a respondent should be understood to include situations where a parent or guardian has the legal right to act on behalf of the respondent.

**"Retaliation"** – Retaliation is a form of discrimination, which occurs when a person has engaged in a protected activity (*e.g.*, participating or refusing to participate in an investigation or grievance process regarding sexual harassment, reporting sexual harassment, or filing a formal complaint of

sexual harassment) and is subject to adverse action because of the person's involvement in the protected activity.

Example #1: A student files a complaint for sexual harassment against a professor. The professor lowers the student's grade in response to the complaint.

Example #2: A student files a complaint for sexual harassment against another student. The respondent's friends verbally threaten the complainant and follow the complainant due to the complaint.

**“Sexual Assault”** – Unwelcome intentional physical conduct of a sexual nature. Sexual assault includes, but is not limited to, the following which occur in the absence of consent: unwanted touching; kissing; oral, vaginal, or anal sex; non-consensual penetration, no matter how slight, of the vagina or anus with any body part or objection; and non-consensual oral penetration of the vagina or anus by another person's sex organ. “Sexual Assault” further includes an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

**“Sex Discrimination”** – Adverse or negative treatment based on gender, sex, gender identity, gender expression, sexual orientation, or results of genetic testing, which denies a person equal educational access.

**“Sexual Harassment”** – Conduct on the basis of sex that satisfies one or more of the following:

(1) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a UNOH program or activity, interferes with or limits a student's ability to benefit from or participate in a UNOH program or activity, or interferes with or limits an employee's ability to perform his or her job. Sexual harassment includes unwelcome sexual advances; requests for sexual favors; and other verbal, non-verbal, or physical conduct of a sexual nature by a UNOH employee, by another student, or by a third party. The more severe the conduct, the less necessary it is to demonstrate a repetitive series of events to establish a hostile environment, particularly where the harassment in question is physical. A single or isolated incident may constitute sexual harassment if the incident is sufficiently severe and objectively offensive. The more severe and objectively offensive the conduct in question, the less necessity there is to establish that the conduct was pervasive.

(2) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30). Reports pursuant to this subsection do not need to meet the description of severe, pervasive, and objectively offensive to constitute sexual harassment for purposes of this Policy.

Example #1: A student sexually assaults another student.

Example #2: A student living on campus makes comments based on sex to another student in class, follows the other student back to the residence hall after class, and threatens physical harm against that student in the residence hall.

- (3) An UNOH employee conditioning the provision of an aid, benefit, or service of UNOH on an individual's participation in unwelcome sexual conduct. Reports pursuant to this subsection do not need to meet the description of severe, pervasive, and objectively offensive to constitute sexual harassment for purposes of this Policy.

Example #1: A professor repeatedly asks a student to engage in sexual activity and offers to improve the student's grade if the student agrees.

**“Stalking”** – Engaging in a course of conduct directed against a specific person that would (1) cause a reasonable person to fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress. Examples of stalking include, but are not limited to, monitoring, following, threatening, conducting surveillance, communicating to or about an individual, or interfering with an individual's property that could cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

**“Student”** – Individuals currently enrolled in part- or full-time coursework with UNOH, otherwise defined as a “student” in this or other UNOH policies, and student employees.

**“Supportive Measures”** - 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 UNOH's programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or UNOH's educational environment, or deter sexual harassment. Supportive measures may include, but are not limited to, 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 (e.g., no contact directives), changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. For employees, supportive measures additionally may include reassignment, leave, or other actions.

UNOH 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 UNOH to provide the supportive measures, to the extent otherwise provided in this Policy, and to the extent doing so is consistent with applicable law and regulations. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

## **VI. Reporting Allegations of Sexual Harassment**

### **A. How to Report Allegations of Sexual Harassment**

To ensure that UNOH has an opportunity to appropriately address sexual harassment, the University encourages any individual to report sexual harassment experienced or witnessed while participating in a UNOH program or activity in the United States, whether or not the sexual harassment occurred on University property.

Such reports may be made online on the UNOH website at any time at: <https://www.unoh.edu/title-ix/submit-a-report.shtml>, or to any of the individuals listed below. Individuals also may submit a report at any time by completing the form at <https://www.unoh.edu/files/title-ix/titleix.pdf> and either emailing it to [titleix@unoh.edu](mailto:titleix@unoh.edu) or mailing it to Title IX Coordinator, UNOH, 1441 N. Cable Road; Lima, OH 45805.

UNOH has designated the following individuals to handle reports and inquiries related to Title IX:

**Title IX Coordinator for Students**

Danielle McClure, MRC, PC

(419) 998-3157

[dmcclure@unoh.edu](mailto:dmcclure@unoh.edu)

Office is located on the first floor of the 13000 building

**Title IX Coordinator for Employees**

Geri Morris

(419) 998-3106

[geri@unoh.edu](mailto:geri@unoh.edu)

Office is located on the first floor of the 1000 building

The University's Title IX Coordinators' duties include receiving reports and allegations of sexual harassment; providing resources and information to the University's students, employees, and staff; helping individuals who may need additional assistance or supportive measures after reporting sexual harassment, and as further described in this Policy.

Students are encouraged to report any suspected violations of this Policy to the Title IX Coordinator for Students, Danielle McClure, at (419) 998-3157, by email at [dmcclure@unoh.edu](mailto:dmcclure@unoh.edu), or in person at the first floor of the 13000 Building, and/or by calling the Office of Safety Services at (419) 998-3167.

Employees are encouraged to report any suspected violations of this Policy to the Title IX Coordinator for Employees, Geri Morris, at (419) 998-3106, by email at [geri@unoh.edu](mailto:geri@unoh.edu), or in person at the first floor of the 1000 Building, and/or by calling the Office of Safety Services at (419) 998-3167.

When making a report, individuals will be asked to provide details regarding the incident, the parties involved, and potential witnesses.

Individuals also may direct inquiries regarding sexual discrimination or sexual harassment to:

Office for Civil Rights  
U.S. Department of Education  
1350 Euclid Avenue  
Suite 325  
Cleveland, OH 44115  
Telephone: (216) 522-4970  
Facsimile: (216) 522-2573  
Email: [OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov)

## **B. Timing of Reports**

UNOH encourages the reporting of allegations of sexual harassment as soon as possible, and no later than three hundred (300) days after the last instance of alleged sexual harassment. An individual seeking to report allegations of sexual harassment after this 300-day period expires may submit a written request for a waiver to the appropriate UNOH Title IX Coordinator, setting forth the reason(s) why the individual failed to report the alleged sexual harassment before the 300-day period expired. Delays in reporting may limit, affect, or preclude UNOH's ability to investigate and respond to a report, provide supportive measures, and consider whether to initiate the grievance process, for reasons including that parties or witnesses may be unavailable or unable to recall details and that evidence may be unavailable or destroyed.

## **C. Mandatory Reporting**

### **1. Who Is Obligated to Report**

UNOH employees must immediately report to a UNOH Title IX Coordinator any incident of alleged sexual harassment of which they are aware that occurred during or is related to a UNOH program or activity and against a person in the United States, pursuant to this Policy, whether or not the sexual harassment occurred on University property. Reports should be submitted within forty-eight (48) hours after the employee is notified of the alleged incident through the UNOH online reporting form at <https://www.unoh.edu/title-ix/submit-a-report.shtml> or as otherwise provided for in this Policy.

These reporting obligations apply to all UNOH employees, with the exception of certain employees at the UNOH Counseling Center and Student Assistance Program ("SAP"). This is consistent with Ohio state law requirements, including R.C. §2921.22, which, with some exceptions, states that "no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities."

### **2. What Must Be Reported**

UNOH employees making a report of sexual harassment must report to a UNOH Title IX Coordinator or official with authority through the UNOH online reporting form at <https://www.unoh.edu/title-ix/submit-a-report.shtml> or as otherwise provided for in this

Policy. The report should include any details of the alleged incident within the UNOH employee's knowledge, including any information regarding the identity of the complainant and respondent; the nature of the incident; the date, time, and place of the incident; and any other available facts concerning the incident. UNOH employees should not conduct an independent investigation or inquiry into allegations or incidents of sexual harassment unless specifically tasked with doing so pursuant to this Policy.

#### **D. UNOH Safety Services and Local Law Enforcement**

##### **1. Making Reports to Law Enforcement**

UNOH is dedicated to working collaboratively with UNOH Safety Services and local law enforcement agencies. An individual who experiences or witnesses sexual harassment may make a report to UNOH Safety Services at (419) 998-3167; the Lima Police Department at (419) 227-4444; the Allen County Sheriff's Office at (419) 227-3535; or any other applicable local law enforcement agency. In an emergency, individuals should dial 9-1-1. Reports can also be made to UNOH Safety Services, a UNOH Title IX Coordinator, or local law enforcement, or any combination thereof.

Reports of sexual harassment made to UNOH Safety Services will be communicated to a UNOH Title IX Coordinator. The assigned Title IX Coordinator, in turn, will share information regarding sexual harassment cases with UNOH Safety Services to ensure that the University is in compliance with the Clery Act and to help ensure campus safety.

##### **2. Coordinating with Local Law Enforcement**

Where a report is simultaneously made to the University (through UNOH Safety Services or a UNOH Title IX Coordinator) and local law enforcement, UNOH will coordinate with law enforcement, as needed, to make sure law enforcement has a reasonable time to gather information and evidence. As part of such coordination, UNOH may place its investigation on hold for a reasonable time, and promptly resume its investigation after such reasonable time has passed. UNOH, at its discretion, may implement supportive measures or other remedies to protect the involved complainant, respondent, witnesses, or other third parties during the time in which law enforcement is gathering information and evidence.

##### **3. Protective Measures from Law Enforcement**

In addition to the supportive measures listed below, a complainant may be able to obtain protective measures from local courts, including but not limited to civil protection orders. UNOH is not involved in such proceedings, but has provided information about potentially available supportive measures below.

#### **4. Considerations When Filing a Report with a Local Law Enforcement Agency**

An individual who experiences sexual assault is strongly encouraged to seek immediate medical attention. Such individuals should consider requesting a forensic examination from a Sexual Assault Nurse Examiner (“SANE”) at St. Rita’s Medical Center; 730 W. Market St.; Lima, OH 45801; (419)227-3361 or at another area hospital. An individual choosing to have a forensic examination should bring a change of clothing and avoid showering, eating, drinking, douching, changing clothes, or brushing teeth or hair before the examination, to assist in preserving evidence in the event of a criminal proceeding.

#### **E. Title IX Coordinator’s Evaluation of Report and Response**

UNOH’s response obligations, as described in this Policy and under applicable law, are triggered when the Title IX Coordinator or other UNOH official with authority to institute corrective measures on behalf of UNOH obtains actual knowledge of the allegations.

Within seven (7) days of receiving a report of alleged sexual harassment, the assigned UNOH Title IX Coordinator will decide how to respond to the report.

If the Title IX Coordinator determines that the alleged actions do not meet the definition of sexual harassment in this Policy or did not occur in a UNOH program or activity against a person in the United States, then the Title IX Coordinator will dismiss the report for purposes of Title IX. However, UNOH may still choose to address the allegations as it deems appropriate and at its discretion pursuant to UNOH’s *Student Code of Conduct* or other applicable UNOH policy. UNOH will provide the parties with written notice of a dismissal and the reasons for the dismissal. If a dismissal occurs for purposes of Title IX, the complainant may appeal to the extent permitted pursuant to this Policy.

If a complainant desires to proceed with an investigation, and if the assigned Title IX Coordinator determines that the allegations fall within the definition of sexual harassment and the requirements for filing formal complaints under this Policy, the Title IX Coordinator will request the complainant to file a formal complaint.

### **VII. Formal Complaints**

#### **A. Filing a Formal Complaint**

Although any person may report allegations of sexual harassment, whether or not the reporting person is the alleged victim of such conduct, only a complainant may bring a formal complaint, except as otherwise provided herein regarding the Title IX Coordinator bringing a formal complaint. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a UNOH program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic

mail, by using the Title IX Coordinator's contact information or as otherwise described in this Policy.

Promptly upon receipt of a formal complaint, the Title IX Coordinator will provide each party written notice including a copy of such complaint and notifying the parties of:

- (1) The identity of the parties, if known;
- (2) The parties' right to select an advisor of their choice, who may be, but is not required to be, an attorney;
- (3) The parties' ability to inspect and review evidence pursuant to this Policy;
- (4) The allegations of sexual harassment made by the complainant, including the conduct allegedly constituting sexual harassment;
- (5) The date and location of the alleged incident, if known;
- (6) Provisions in this Policy and *Student Code of Conduct* which prohibit knowingly making false statements or submitting false information during the investigation or grievance process or during disciplinary proceedings;
- (7) The grievance process, including the informal resolution process; and
- (8) That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

UNOH may dismiss the formal complaint or allegations therein if, at any time during the investigation or hearing:

- (1) The complainant informs the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- (2) The respondent is no longer enrolled or employed by UNOH;
- (3) Specific circumstances prevent UNOH from gathering evidence sufficient to reach a determination as to the formal complaints or allegations therein.

Upon such a dismissal, UNOH promptly will send the parties a written notice of a dismissal and the reasons for the dismissal.

**B. Formal Complaints by the Title IX Coordinator**

UNOH will respect the complainant's wishes regarding whether the University will investigate unless the Title IX Coordinator determines, at the Title IX Coordinator's sole discretion, that signing a formal complaint to initiate an investigation over the complainant's wishes is not clearly unreasonable in light of the known circumstances. In such circumstances, complaints may be initiated and signed by the Title IX Coordinator. If the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not considered a complainant or a party for purposes of the grievance process or otherwise, and will address the formal complaint without conflict or bias. If the Title IX Coordinator determines it is necessary to sign a formal complaint, the grievance process may proceed even if the complainant's identity is unknown or a complainant reported anonymously.

### **C. Anonymous Reports and Formal Complaints**

Although anonymous reports are permitted, doing so may limit, affect, or preclude UNOH's ability to investigate and respond to a report, provide supportive measures, and engage in the grievance process. Similarly, if a complainant requests that his or her name or identifying information be withheld from the respondent, doing so may limit UNOH's ability to respond to the report. A formal complaint may not be filed anonymously, except as otherwise provided in this Policy regarding complaints by the Title IX Coordinator. When a complainant desires to file a formal complaint and initiate a grievance process, the complainant cannot remain anonymous or prevent the complainant's identity from being disclosed to the respondent.

## **VIII. Confidentiality**

UNOH understands and takes seriously the need for respecting the privacy of complainants, respondents, witnesses, and other involved persons in responding to complaints and reports of sexual harassment. UNOH operates in accordance with state and federal privacy laws and the Ohio Public Records Act and, to the extent possible, keeps the identities of complainants, respondents, third party reporters, witnesses, and other involved persons confidential, except as permitted by the Family Educational Rights and Privacy Act ("FERPA") or its related regulations, as required by law, to carry out the purposes of 34 C.F.R. Part 106, and as otherwise necessary to investigate and carry out Title IX investigations, hearings, processes, or proceedings.

To the extent possible, the University will take reasonable steps to respect a complainant's request for confidentiality, but there may be some instances when the University cannot honor such a request. For example, if a complainant desires supportive measures, UNOH may disclose a complainant's identity as necessary to provide supportive measures to the complainant (*e.g.*, where a no contact directive is appropriate and the respondent needs to know the complainant's identity to comply with the directive). When reviewing requests for confidentiality, UNOH's Title IX Coordinators will evaluate factors such as the number of complaints against the respondent, the seriousness of the alleged harassment, the complainant's age, whether the safety of others or the campus as a whole will be jeopardized, the respondent's rights to receive information about the allegations under FERPA, and UNOH's duties under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"). UNOH will notify the individual requesting confidentiality of the determination in that regard as soon as possible. If the complainant

insists on confidentiality, UNOH may decide not to take disciplinary action against a respondent, or may pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

UNOH is required to share information with the University's Safety Services Office regarding certain conduct (*e.g.*, reports of stalking, dating violence, domestic violence, and sexual assault) unless such reports are exclusively made to confidential sources. To maintain a report's confidentiality, complainants should use the UNOH Counseling Center, UNOH Student Assistance Program ("SAP"), or the off-campus counseling resources listed below. Appendix A contains contact information for some available confidential resources.

### **IX. Amnesty for Individuals Reporting Sexual Harassment**

UNOH encourages individuals to report sexual harassment and acknowledges that some individuals may be reluctant to make reports or to fully cooperate in a formal complaint or grievance process. So long as a student's conduct did not result in a threat to the safety or health of others, a student involved in the Title IX process as a complainant, respondent, or witness typically will not be subject to discipline as a result of his or her personal consumption or use of drugs or alcohol at the time the incident occurred. UNOH may determine that a complainant, respondent, or witness who has been involved in other *Student Code of Conduct* violations at the time the incident occurred should not be subject to discipline, at UNOH's sole discretion, if the other violations are non-discriminatory and non-violent. This amnesty does not extend, however, to other potential violations of the *Student Code of Conduct* that may have been committed, even if the individual was under the influence of drugs or alcohol when the alleged violations were committed. Regardless of the aforementioned amnesty, UNOH may impose educational remedies related to a student's use or consumption of drugs or alcohol or involvement in non-discriminatory and non-violent *Student Code of Conduct* violations.

### **X. Supportive Measures**

Supportive measures are available to complainants reported to have experienced an alleged incident of sexual harassment. UNOH will determine the scope and necessity of any such supportive measures and what particular supportive measures may or may not be appropriate at its discretion. The assigned UNOH Title IX Coordinator will contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of available supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. UNOH may provide supportive measures at its discretion during or after an investigation, and even if an investigation does not occur. On a case-by-case basis, UNOH may also provide supportive measures to a respondent, as UNOH deems appropriate in its sole discretion. Supportive measures do not restrict the ability of parties to gather evidence or discuss the allegations, subject to the Policy's provisions regarding no contact directives.

While UNOH may impose supportive measures at its discretion which are not clearly unreasonable in light of the known circumstances, UNOH will not impose disciplinary sanctions or other actions against a respondent unless and until the formal complaint, investigation, and grievance processes are complete and result in a finding against the respondent, or another agreement or resolution is

reached pursuant to this Policy. On an emergency basis, UNOH may remove a respondent from UNOH's programs or activities, with or without an investigation or whether or not a grievance process is pending, upon undertaking an individualized safety and risk analysis, determining 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 providing the respondent with notice and an opportunity to challenge the decision immediately following the removal. UNOH may place a non-student employee respondent on administrative leave during the pendency of a grievance process under this Policy.

UNOH uses supportive measures in a manner intended to minimize the burden on the complainant, but also, as appropriate, taking into consideration due process with regard to the respondent and others. UNOH encourages all persons to report concerns regarding another person's failure to abide by a supportive measure.

**A. No Contact Directives**

UNOH's Title IX Coordinators and Director of Safety Services may issue a no contact directive prohibiting contact between students and/or employees when a reasonable concern exists that physical or psychological harm may result from such contact, including under circumstances including, but not limited to:

- (1) when there are allegations, threats, or evidence of physical violence by one student or employee against another;
- (2) when there are allegations, threats, or evidence of emotional abuse or harassment by one student or employee against another;
- (3) when there is a substantial risk of emotional or other harm from continued contact between students or employees;
- (4) when continued contact between students or employees may have a material impact on campus discretionary proceedings;
- (5) when requested or agreed to in good faith by the students or employees involved; or
- (6) when there are allegations of serious college policy violations.

All no contact directives shall provide that the subject students or employees may not have contact with the other. "Contact" includes, but is not limited to, in-person contact, telephone calls, emails, texts, and other forms of electronic communication, social media-based messages or postings, and third party communications including through proxies. Social media includes, but is not limited to, Facebook, Snap Chat, Twitter, and Instagram.

No contact directives may include additional supportive measures or other terms specific to the safety, well-being, or other needs of any student or employee subject to the no contact

directive, when deemed necessary by UNOH. Any additional terms shall be expressly stated in the no contact directive. Additional supportive measures or other terms need not be reciprocal. They may include, but are not limited to, the following:

- (1) Restricting a student or employee from being in close proximity to the other student or employee;
- (2) Restricting a student or employee's access to certain campus locations, including a residence hall;
- (3) Restricting the times a student or employee may be present in on-campus dining facilities and learning facilities;
- (4) Requiring that the student or employee not be enrolled in or teach the same academic course(s);
- (5) Requiring that the student or employee not be involved in the same co-curricular or extra-curricular activities; and/or
- (6) Requiring an accused student to move residence locations if both parties live in the same dorm locations.

UNOH will review all interim no contact directives at the conclusion of the investigation and grievance process to determine whether a no contact directive pursuant to this section should be converted to a No Contact Order ("NCO") pursuant to the UNOH *Student Code of Conduct*. Each no contact directive will remain in effect unless the no contact directive expressly provides otherwise or is modified or rescinded by UNOH.

A student or an employee seeking the modification or rescission of a no contact directive shall submit the request in writing to the individual who issued the directive. The written request should set forth the reason(s) the no contact directive should be modified or rescinded. The issuing individual shall consult with both parties before determining whether or not to modify or rescind the no contact directive.

Violations of no contact directives are considered violations of this Policy and the *Student Code of Conduct*, and the violator is subject to discipline and sanctions under this Policy and the *Student Code of Conduct*. Students who have interpersonal conflicts that do not raise concerns for individual health and safety will not be granted no contact directives. These individuals may seek assistance through the Student Assistance Program or the Counseling Center.

## **XI. Opportunity for Informal Resolution**

After a formal complaint is filed, and at any time prior to reaching a determination on responsibility, UNOH may facilitate an informal resolution process, such as mediation, that does not involve a full grievance process and adjudication. The informal resolution process will not be

offered unless a formal complaint is filed. No party is required to participate in informal resolution efforts, nor is any party required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation, grievance process, or adjudication of formal complaints of sexual harassment under this Policy.

The informal resolution process is not available in situations where sexual violence is alleged, where a UNOH employee is alleged to have sexually harassed a student, or where the respondent is in a position of authority over the complainant.

Before proceeding with an informal resolution process, UNOH will:

- (1) Provide the parties with a written notice disclosing: the allegations; the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
- (2) Obtain the voluntary and written consent of all parties to the informal resolution process.

If all parties provide informed voluntary and written consent to attempt informal resolution, the Title IX Coordinator will assign an informal resolution facilitator, who will schedule separate meetings with each party to present and discuss the potential for informal resolution. UNOH's designated informal resolution facilitator is:

Jason Wagner, Disability Support Specialist/Assistant Director of Student Success

The assigned informal resolution facilitator will not be the same person as the assigned Title IX Coordinator, assigned investigator, or assigned decision-maker. At its sole discretion, UNOH also may choose to designate an impartial third party informal resolution facilitator, who may but is not required to be a licensed attorney, selected and assigned by the assigned Title IX Coordinator.

At any time prior to informal resolution, any party may withdraw from the informal resolution process and proceed with the grievance process.

## **XII. Grievance Process for Formal Complaints of Sexual Harassment**

UNOH email will be the primary method of communication throughout the investigation and grievance process, and complainants and respondents are encouraged to check their UNOH email accounts regularly. UNOH will take action to promptly respond to and appropriately address allegations of sexual harassment, including when a party does not respond to a communication

from UNOH regarding the report, allegations, formal complaint, or other processes herein. This may include proceeding with the grievance process if either or both parties do not respond within a reasonable period of time.

Throughout the grievance process, UNOH objectively will evaluate all relevant inculpatory and exculpatory evidence, and avoid credibility determinations based upon an individual's status as a complainant, respondent, witness, or other involved person. In the investigation and grievance processes, UNOH will not access, consider, disclose, rely on, use, or seek disclosure of information or documents protected under a privilege applicable pursuant to state or federal law, or a party's medical, psychological, psychiatric, or similar treatment-related records, which are made and maintained in connection with the provision of treatment to the party, unless the holder of the privilege provides voluntary, written consent to do so. UNOH will follow the grievance process herein before imposing any disciplinary measures or other actions that are not supportive measures, as defined and described herein, against a respondent.

UNOH may, in its discretion, 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. Where a grievance process involves more than one complainant or more than one respondent, references in this Policy to the singular "party," "complainant," or "respondent" include the plural, as applicable.

**A. Standard of Review**

UNOH applies a preponderance of the evidence or "more likely than not" standard of review to its grievance process for formal complaints of sexual harassment. The respondent is presumed not responsible for the alleged conduct unless and until he or she is found to be responsible by a preponderance of the evidence at the conclusion of the grievance process.

**B. Timing of Grievance Process**

UNOH's time periods and deadlines identified in this Policy may be temporarily delayed or extended for good cause, at UNOH's sole discretion, with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; or if otherwise appropriate under the circumstances (e.g., during school breaks). The assigned investigator, decision-maker, or Title IX Coordinator will notify the parties of any delays or extensions and the reasons therefor.

**C. The Grievance Process**

**1. Assignment of Investigator**

The Title IX Coordinator will assign an appropriate Deputy Title IX Officer, a.k.a., UNOH Title IX investigator, to complete an investigation. UNOH's Title IX investigators are as follows:

Shannon Warman, College of Applied Technologies General Education Instructor  
Stephanie Ream, College of Applied Technologies General Education Instructor  
Jason Wagner, Disability Support Specialist/Assistant Director of Student Success

At its sole discretion, UNOH also may choose to designate an impartial third party investigator, who may but is not required to be a licensed attorney, selected and assigned by the assigned Title IX Coordinator.

The identity of the assigned investigator will be reviewed with each party to ensure there is no alleged conflict of interest or bias. If a party claims a conflict of interest or bias, the assigned Title IX Coordinator will have sole discretion to determine whether a conflict of interest or bias exists and whether to assign a different investigator.

## **2. Assigned Title IX Investigator's Investigation**

Within seven (7) days after an investigator is assigned, the assigned investigator will provide the complainant and respondent with written notice before scheduling their investigative interviews. Interviews may occur in person, virtually, or telephonically. Within the same timeframe, the assigned investigator will provide the complainant and respondent with written information concerning the investigation process, supportive measures, available resources, and how to raise and resolve issues regarding supportive measures or conflicts of interest or bias throughout the process.

The investigation generally will be concluded within forty-five (45) days after an investigator is assigned. Within the 45-day period, the following generally must occur:

- (1) The assigned investigator will interview the parties;
- (2) The assigned investigator, as appropriate and at the investigator's discretion, will interview witnesses identified by each party and/or the investigator;
- (3) The assigned investigator will review other available evidence, including written documentation identified by any party as relevant;
- (4) The assigned investigator will take notes during each interview and review those notes with the interviewees at the conclusion of the interview to ensure that they are accurate. Written comments regarding any notes on which the investigator and any interviewee or party do not agree will be included as part of the investigator's final report;

- (5) The complainant and respondent will have an equal opportunity to present evidence and identify witnesses during the investigation, and to be accompanied by one advisor of their choice, who may, but is not required to be, an attorney. Generally, the complainant's sexual history or behavior will not be considered, unless offered to prove consent or that an individual other than the respondent committed the alleged sexual harassment;
- (6) The assigned investigator will provide both parties, and their respective advisors, an equal opportunity to inspect and review the evidence that the investigator determines is directly related to the allegations raised in the formal complaint, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- (7) Prior to completion of the investigative report, the investigator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have 10 days to submit a written response, which the investigator will consider prior to completing the investigative report;
- (8) Once the above-described investigation is concluded, the assigned investigator will prepare a final report summarizing the relevant evidence;
- (9) Subject to the confidentiality requirements of FERPA and the rules of the Clery Act, the complainant and respondent and their respective advisors, if any, will be timely and simultaneously notified in writing of the conclusion of the investigation and provided a copy of the investigator's final report, in electronic format or by hard copy, within five (5) days of the conclusion of the investigation. The parties will have ten (10) days to provide a written response to the final report, if they choose.

### **3. Live Hearing before the Assigned Decision-Maker**

Within thirty (30) days after the assigned investigator issues his or her final report, if the matter is not resolved informally, the following will occur:

- (1) The Title IX Coordinator will assign a decision-maker to conduct a live hearing and reach an adjudication on the formal complaint. UNOH's designated decision-maker is:

Jason Wagner, Disability Support Specialist

The decision-maker will not be the same person as the assigned Title IX Coordinator, the assigned investigator, or the assigned informal resolution facilitator. At its sole discretion, UNOH also may choose to designate an impartial third party decision-maker, who may but is not required to be a licensed attorney, selected and assigned by the assigned Title IX Coordinator.

Before the hearing begins, any party may challenge in writing the assigned decision-maker on the grounds of conflict of interest, bias, or a personal relationship that might affect impartial consideration of the case. If a party does not make such a challenge before the hearing begins, the party waives the opportunity to do so, barring a substantial change in circumstances during the hearing as determined at the discretion of the assigned Title IX Coordinator.

(2) In advance of the hearing, the assigned decision-maker will provide a written “Notification of Pending Title IX Disciplinary Hearing,” which will be delivered in person, or sent to the complainant’s and respondent’s respective local addresses of record by certified mail return receipt requested.

(3) UNOH will make evidence which was subject to the parties' inspection and review during the investigation available to the parties at the hearing, and the parties may refer to such evidence during the hearing, including for purposes of cross-examination. At a party’s request, the decision-maker will provide the party with copies of documents relevant to the case, excluding any marked “Confidential,” which were not already provided to the parties during the investigation.

(4) The hearing will be a live hearing with opportunity for cross-examination. For purposes of this Policy, “live hearing” means a hearing conducted with all parties physically present in the same location or, at UNOH’s discretion, a hearing where any or all parties, witnesses, or other involved individuals appear at the live hearing virtually, with technology enabling participants to see and hear each other. UNOH will create an audio or audiovisual recording or transcript of any live hearing under this Policy, and will make it available to the parties for inspection and review.

(5) At either party’s request, the entire live hearing will occur with the parties in separate rooms with technology allowing the decision-maker and the parties to simultaneously see and hear the party or witness answering questions.

(6) If a party does not have an advisor present at the live hearing, UNOH will provide an advisor of UNOH’s choice, at no cost to the party, to conduct cross-examination on the party’s behalf.

(7) Each party’s advisor will have the opportunity to ask the other party and any witnesses relevant questions and follow-up questions, including relevant questions challenging a party’s or witness’s credibility. Cross-examination at the live hearing must be conducted orally, directly, and in real time by the party’s advisor, and never by a party personally. Only relevant cross-examination and other questions are permitted. Before a party or witness answers a question, the decision-maker will determine whether the question is relevant and explain any decision to exclude a question as not relevant. Aggressive or abusive questioning will not be tolerated or permitted.

(8) The complainant and respondent will have an equal opportunity to present evidence and witnesses during the hearing. Generally, the complainant's sexual history or behavior will not be considered, and is an irrelevant subject which cannot be inquired about during cross-examination, unless such history or behavior concerns specific instances of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent, or the complainant's sexual history or behavior is offered to prove that an individual other than the respondent committed the alleged sexual harassment.

(9) If a party or witness does not submit to cross-examination at the live hearing, the decision-maker will not rely on any statement of the party or witness in reaching the decision-maker's decision regarding responsibility. Nor will the decision-maker draw any inference regarding its determination of responsibility based solely on a party's or witness's absence from the live hearing or failure or refusal to answer questions or participate in cross-examination or other questions.

(10) The investigator will present the investigator's report to UNOH's assigned decision-maker for consideration as part of the evidence;

(11) The decision-maker will exercise control over the proceedings. Any person disrupting a hearing or who fails to adhere to the rulings or instructions of the decision-maker may be excluded from the proceedings.

After the hearing, the decision-maker will apply the preponderance of the evidence standard to reach a determination regarding responsibility. The decision-maker will prepare and issue his or her final written determination regarding responsibility to the assigned Title IX Coordinator or his/her designee to issue to the parties. The final written determination will include:

- (1) Identification of allegations potentially constituting sexual harassment;
- (2) A description of procedural steps taken from the receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- (3) Findings of fact supporting the determination;
- (4) Conclusions regarding the application of this Policy and the *Student Code of Conduct* to the facts, as applicable;
- (5) A statement, and rationale for, the result as to each allegation, including a determination regarding responsibility, any discipline or sanctions imposed on the respondent, and whether remedies will be provided to the complainant; and

- (6) UNOH's procedures and permissible bases for the complainant and respondent to appeal.

A copy of the written determination will be provided simultaneously to the parties, with information about how to file an appeal. A copy of the final written determination will be retained by the assigned Title IX Coordinator.

If an appeal is not filed, the written determination becomes final on the date when an appeal would no longer be considered timely. If an appeal is filed, the written determination becomes final on the date UNOH provides the parties with the written determination of the result of the appeal.

Information about the case, including any findings and any sanctions, will be shared with a student respondent's College, department, and/or program to allow the College, department, and/or program to evaluate whether the finding and sanctions implicate any standards specific to the College, department, and/or program, and to make any necessary decisions regarding the respondent's fitness for such College, department, and/or program. This process will not alter UNOH's findings or sanctions, but can only result in additional conclusions regarding whether the respondent should be further sanctioned based upon the applicable College, department, and/or program expectations. Although additional notice is not part of UNOH's formal Title IX process, the College, department, and/or program will provide the complainant and the respondent with notice if additional discipline for the respondent is under consideration; will permit the complainant and respondent to submit information; and will provide the complainant and respondent notice of the outcome of the College, department, and/or program's process.

#### **D. Participation of Advisors**

The complainant and respondent may each bring one advisor of their choice to meetings, interviews, and hearings during the grievance process. If either advisor is an attorney, the assigned Title IX Coordinator must be advised at least twenty-four (24) hours before the meeting, interview, or hearing that that attorney advisor will be present and the name of such attorney advisor. Advisors, including attorney advisors, may be present for meetings, interviews, and hearings, but may not speak, interrupt, or participate in the process, except as specifically provided for in this Policy. If an advisor does not comply, the advisor will be asked to leave. Advisors are expected to be available on the dates and times on which meetings, interviews, and hearings are scheduled, and meetings, interviews, and hearings will not be rescheduled to accommodate any party's advisor. Neither the parties nor their advisors may record, photograph, or make audio recordings of meetings, interviews, hearings, or other proceedings conducted under this Policy.

UNOH has advisors available, upon request, to assist complainants and respondents during the grievance process. Complainants or respondents wishing to utilize an advisor should contact the assigned Title IX Coordinator.

#### **E. Conflicts of Interest, Bias, and Fairness of Process**

This Policy contains procedures for the reliable, prompt, and impartial grievance process regarding sexual harassment complaints. The parties will receive timely and similar access to information throughout this process. Any concerns about conflicts of interest or bias -- real or perceived -- regarding any person's participation in the process should be brought immediately to the attention of the assigned investigator, assigned decision-maker, or a UNOH Title IX Coordinator.

**F. Recordkeeping**

UNOH maintains records related to sexual harassment and retaliation investigations and proceedings under this Policy pursuant to applicable federal and Ohio state law requirements.

**G. Training**

Appropriate and applicable training will be provided to UNOH's Title IX Coordinators, investigators, decision-makers, persons designated by UNOH to facilitate an informal resolution process, and other individuals who have responsibilities pursuant to this Policy, as determined by UNOH and required by applicable law.

**XIII. Sanctions and Remedies**

The remedies and sanctions that may be available or imposed depend upon the nature of the relevant party's relationship to UNOH. A student found responsible for an incident of sexual harassment may be subject to discipline pursuant to the *Student Code of Conduct*, probation with a written reprimand through expulsion, other punitive measures, or other consequences, discipline, or sanctions pursuant to federal or Ohio state law, at the decision-maker's discretion.

If an employee is found in violation of this Policy, any resulting discipline or sanctions will be addressed through the personnel policy and any other applicable policies or procedures that apply to UNOH employees. If the respondent is a UNOH student and a UNOH employee, the case will be treated first as an employment matter.

If the respondent is not a UNOH student or employee, the scope and variety of sanctions available to UNOH may be limited. UNOH may, however, impose sanctions including, but not limited to, restrictions on contact with the complainant and/or UNOH students and/or the UNOH campus, and may provide the complainant with appropriate remedies, including, but not limited to, academic accommodations.

UNOH will provide remedies, as appropriate, to individuals who have experienced sexual harassment or retaliation, and may provide remedies, as appropriate, to the UNOH campus community. Remedies will be designed to restore or preserve equal access to UNOH's education programs and activities. Such remedies will be designed to promote the complainant's equal access to education and may include services imposed as supportive measures during the investigation and the grievance process; changes to policies and procedures; changes to educational

programming; counseling; providing an escort; academic support services; and modifications to work, educational, or living situations. Remedies further may include discipline or other punitive measures on the respondent, and need not avoid burdening the respondent.

#### **XIV. Retaliation**

UNOH will not tolerate unlawful retaliation, including retaliatory harassment, related to allegations of sexual harassment, upon its students or employees participating or attempting to participate in a UNOH program or activity, whether or not the alleged sexual harassment or retaliation occurred on University property. UNOH not only will take steps to prevent unlawful retaliation, but also will take responsive action if retaliation occurs.

Unlawful retaliation includes, but is not limited to, harassing, intimidating, threatening, coercing, discriminating against, or otherwise retaliating against an individual because he or she engaged in one or more activities protected under Title IX or 34 C.F.R. Part 106, including:

- (1) Reporting sexual harassment or sex discrimination;
- (2) Filing a formal complaint for sexual harassment;
- (3) Assisting someone in reporting sexual harassment or filing a formal complaint;
- (4) Participating or refusing to participate in any way in an investigation, proceeding, grievance process, or hearing regarding sexual harassment (*e.g.*, testifying as a witness);
- (5) Protesting any form of sexual harassment or sex discrimination (*e.g.*, lack of equity in athletics).

Unlawful retaliation further includes charging an individual with violations of the *Student Code of Conduct* which do not involve sexual harassment, but arise from the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with a person's rights or privileges pursuant to Title IX, 34 C.F.R. Part 106, other applicable law, or this Policy.

Complaints alleging retaliation may be filed according to UNOH's grievance procedures for sex discrimination. The exercise of rights protected under the First Amendment to the U.S. Constitution, where applicable, does not constitute prohibited retaliation.

A student who engages in harassment, intimidation, coercion, or other retaliation directed at a complainant or witness arising out of the complainant or witness's filing of a report or formal complaint, or participation, or refusal to participate in the complaint resolution process under this Policy will be subject to disciplinary action under the *Student Code of Conduct*.

An employee who engages in harassment, intimidation, or other retaliation or harassment directed at a complainant or witness arising out of the complainant or witness's filing of a report or formal complaint, or participation or refusal to participate in the complaint resolution process under this

Policy will be subject to disciplinary action under the personnel policy, other applicable policy, or federal or Ohio state law.

Finding a violation of this Policy, the *Student Code of Conduct*, or applicable law for making a materially false statement in bad faith during a Title IX investigation, grievance process, hearing, or other Title IX proceeding does not constitute retaliation for purposes of this Policy. However, a determination regarding the respondent's responsibility, alone, is not sufficient grounds to find that any individual made a materially false bad faith statement.

## **XV. Appeal Process**

The complainant and respondent will both be provided equitable rights to appeal from a determination regarding responsibility, and from a dismissal of a formal complaint or any allegations therein, as set forth herein and under applicable law. Any appeal must be in writing to the assigned Title IX Coordinator within three (3) days of the date of the written notice providing a copy of the written determination. The assigned Title IX Coordinator will determine whether the individual requesting the appeal has standing for appeal consideration.

### **A. Appeals by Complainants or Respondents Who Are UNOH Students or Third Parties**

The appeal must be submitted in writing by the complainant or respondent, and state the grounds for the appeal. UNOH will notify the other party in writing when an appeal is filed.

The Title IX Coordinator will make a preliminary determination, at his or her discretion, that there is standing for the appeal pursuant to one or more of the following categories:

1. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, which could affect the outcome of the matter;
2. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally, or against the individual complainant or respondent which affected the outcome of the matter.
3. A procedural irregularity affected the outcome of the matter.

At the time of filing his or her appeal, the appealing party will be given a Statement of Understanding of Appeal Guidelines that state what will be considered new information.

The Title IX Coordinator will provide both parties with written notice of the Title IX Coordinator's preliminary determination whether there is standing for the appeal. Both parties will have seven (7) days after the Title IX Coordinator provides them with notice of the preliminary determination to submit a written statement in support of, or challenging, the written determination on responsibility or dismissal.

Only if the Title IX Coordinator determines there is standing pursuant to one of the above categories, the Title IX Coordinator will assign a decision-maker for the appeal (“appeal decision-maker”). The appeal decision-maker will not be the same person as the assigned Title IX Coordinator, the assigned investigator, the decision-maker who reached the written determination regarding responsibility or dismissal, or the assigned informal resolution facilitator. At its sole discretion, UNOH also may choose to designate an impartial appeal decision-maker, who may but is not required to be a licensed attorney, selected and assigned by the assigned Title IX Coordinator. The Title IX Coordinator or his/her designee will immediately forward the written appeal to the appeal decision-maker.

If the appeal decision-maker determines that the appeal does not identify sufficient evidence that falls into one of the three categories above, the appeal decision-maker may reject the appeal without further proceedings, even if the Title IX Coordinator made a preliminary determination of standing for the appeal. In such instances, the appeal decision-maker will inform the parties in writing that the grounds for appeal were inadequate and that the decision of the appeal decision-maker is final.

If the appeal criteria are met, the appeal decision-maker will issue a written decision describing the result of the appeal and the rationale for the result. In reaching its decision, the appeal decision-maker can consider the underlying record, including the investigator’s report, the underlying assigned decision-maker’s written determination, evidence and testimony collected in the investigation and presented at the live hearing, and the parties’ written statements on appeal.

The appeal decision-maker will submit the written decision on the appeal to UNOH’s Director of Safety Services or his/her designee within seven (7) University working days of the appeal decision-maker’s receipt of the appeal. The Director of Safety Services or his/her designee will provide a copy of the written decision simultaneously to the parties.

All decisions of the appeal decision-maker shall be final.

#### **B. Appeals by Employees**

For employees, except as otherwise set forth herein or required by applicable law, the appeal process is contained in the personnel policy or other applicable policy. Where the respondent is an employee, a determination not to proceed with disciplinary action is appealable by either party.

### **XVI. Resources**

A list of UNOH campus resources for individuals who have experienced or witnessed sexual harassment or retaliation is available in Appendix A to this Policy and at:

<http://www.unoh.edu/title-ix/campus-resources.shtml>

A list of community resources for individuals who have experienced or witnessed sexual harassment or retaliation is available in Appendix A to this Policy and at:

<http://www.unoh.edu/title-ix/community-resources.shtml>

**XVII. Awareness and Prevention Programs**

All members of the UNOH community play an important part in preventing sexual harassment and retaliation. UNOH provides prevention and awareness programs for students and employees addressing topics such as sexual assault, dating violence, domestic violence, stalking, and bystander intervention.

## Appendix A

### **Resources – The following list of resources are some of those available after an incident of sexual harassment or retaliation.**

Additional on-campus resources are listed at:

<http://www.unoh.edu/title-ix/campus-resources.shtml>.

Additional community resources are listed at:

<http://www.unoh.edu/title-ix/community-resources.shtml>.

### **On-Campus Resources:**

1. UNOH Safety Services -- (419) 998-3167 (24 hours/day; 7 days/week)
2. UNOH Office of Title IX -- (419) 998-3157 (Danielle McClure); [www.unoh.edu/title-ix](http://www.unoh.edu/title-ix)
3. UNOH Counseling Center

The University of Northwestern Ohio's Counseling Center provides professional counseling services for all students. The Counseling Center is dedicated to the personal, social, and academic development of all UNOH students. It provides counseling services within a safe, supportive, and confidential environment and strives to empower students to develop the awareness, values, and skills they will need to meet future challenges and lead meaningful lives. The primary focus of the Counseling Center is to provide the highest quality individual and group counseling to students struggling with problems common to a college population. It also serves as an assessment and referral source for students with more serious and chronic psychological difficulties.

Location: 13000 Student Commons Building

Hours: Monday - Friday, 9:00 a.m. – 5:00 p.m.

Contact Information: Jaelyn Jarvis, Psy.D. - Director of Counseling Center  
419-998-8456  
[jjarvis2@unoh.edu](mailto:jjarvis2@unoh.edu)

4. UNOH Student Assistance Program

In addition to the UNOH Counseling Center, students can utilize professional counseling services, provided free of charge, on campus through the Student Assistance Program (“SAP”).

SAP offers free counseling to all UNOH students through a partnership with ProMedica. Students who would like to speak with a counselor regarding personal, social, drug, or alcohol related issues can visit the Counseling department in the 13000 Student Commons

Building for a referral. All appointments are located on the UNOH campus and confidential. Referrals are made through the Counseling Center or by contacting Dr. Jaclyn Jarvis.

Location: First floor of the 13000 Student Commons Building

Contact Information: Jaclyn Jarvis, Psy.D. - Director of Counseling Center  
419-998-8456  
[jjarvis2@unoh.edu](mailto:jjarvis2@unoh.edu)

5. UNOH Student Success Center -- (419) 998-8440 (academic support and resources)

6. University of Northwestern Ohio Food Bank

Contact Information: UNOH Housing Department  
(419) 998-3170

### **Off-Campus Resources**

*The following information is a listing of some of the available emergency services in the Lima area.*

Lima Police Department – (419) 227-4444

Allen County Sheriff's Department -- (419) 227-3535

St. Rita's Medical Center (including Emergency Department) – (419) 227-3361 (within 72 hours of assault a Physical Evidence Recovery Kit (“PERK”) can be performed; Sexual Assault Nurse Examiner (“SANE”) available)

Lima Memorial Hospital – (419) 228-3335

St. Rita's Westside Urgent Care – (419) 227-2245 (treatment of minor illnesses and emergencies)

Crime Victims Services – (419) 222-8666 (Allen County) or 1-877-867-7273 ([www.crimevictimservices.org](http://www.crimevictimservices.org))

Rape Victims can call 1-877-STOP-RAPE or 1-877-867-7273

Crossroads Crisis Center -- (419) 228-HELP

Coleman Behavioral Services – (419) 229-2222

Lima Community Center – (419) 221-3072 (treatment for those with no family physician, accepts Medicare/Medicaid, operates on sliding fee scale)

Allen County American Red Cross – (419) 227-5121 (disaster relief)

National Hope Line Network 1-800-784-2433

***The following information is a listing of some of the available professional services in the Lima area.***

Behavioral Access Center at St. Rita's – (419) 996-5517

Allen County Veterans Service Commission – (419) 223-8522

Hope Line -- 1-800-567-4673 (free call crisis counseling and referral)

National Hope Line Network -- 1-800-784-2433

Professional Psychological Associates – (419) 999-2024 or 1-800-567-4673 (offers substance abuse and mental health counseling; accepts insurance)

Family Resource Centers -- 530 S. Main St.; (419) 222-1168 (offers substance abuse and mental health counseling; operates on a sliding fee scale based on income; accepts insurance; primarily works with individuals 18 years of age and younger; offers crisis intervention services at no cost)

Coleman Professional Services -- 799 S. Main St.; (419) 229-2222 (offers substance abuse and mental health counseling; operates on a sliding fee scale based on income)

Covenant Ministry Services -- 1130 W. Market St.; (419) 228-2070 (offers mental health counseling; operates on a sliding fee scale based on income; accepts insurance)

Applied Behavioral Services -- 2371 Western Ohio Ave.; (419) 228-4555 (offers substance abuse and mental health counseling; accepts insurance)

St. Rita's Addiction Services -- 730 W. Market; (419) 226-9828 (offers substance abuse treatment; offers immediate urgent mental health assistance in ER; support groups for Alzheimer's, chronic pain, fibromyalgia, Parkinson's, and more; please call for payment details)

Life Management Center -- 915 W. Market; (419) 224-6222 (offers anger management courses)

Crossroads Crisis Center – (419) 228-4357 (offers counseling to battered women, rape victims, and abused children; free assistance; does not have caller ID)

Creative Counseling -- 2653 West Elm St.; (419) 222-5449 (offers counseling for mental health issues including grief and eating disorders; accepts insurance)

Women, Infants, Children (WIC) Program -- 940 N. Cable Rd. Suite 4; (419) 224-8200 or 1-800-755-GROW (provides highly supplemental foods, health care referral, immunization screening and referral, and nutrition education for pregnant women, breastfeeding mothers, women who have a baby less than six months old, and infants and children up to five-years-old; call for additional eligibility requirements)

Allen County Health Department -- 219 E. Market; (419) 224-8200

Women's Preventative Healthcare Project -- 300 S. Elizabeth St.; (419) 224-4500 or 1-800-901-9727 (provides breast and cervical cancer screening for women; call for eligibility requirements)

Samaritan House -- 328 W. McKibben; (419) 222-4663 (emergency shelter for women with or without children)

Lima Rescue Home -- 216 E. Wayne; (419) 224-6902 (emergency shelter for men)

Mental Health and Recovery Services -- 529 S. Elizabeth St. Lima, Oh 45804; (419) 222-5120 (support Groups for the mentally ill on the second & fourth Tuesdays of the month at 7:30 p.m.)

National Alliance for the Mentally Ill ("NAMI") -- (614) 224-2700 or 1-800-686-2646

National Drug Information Treatment and Referral Hotline -- 1-800-662-Help

Dayton Suicide Prevention Center -- 1110 Webster St.; Dayton, OH, 45404; (937) 229-7777; 24 Hours /7 Days a Week

St. Rita's Medical Center (Hospice) -- 1-800-332-4724 or (419) 226-9064 (offers several support groups for grief)

Compassionate Friends -- (630) 990-0010 or 1-877-969-0010;  
[www.compassionatefriends.org](http://www.compassionatefriends.org) (support for parents (and siblings) who have had children die)

Baird Funeral Home -- 555 N. Market St.; Troy, Ohio 45373; (937) 339-2602 (offers a variety of services for grief issues)

Opportunities for Ohioans with Disabilities – 2190 Allentown Road; (419) 228-1421 or 1-800-584-9768

***The following information is a listing of some of the available HIV/AIDS testing sites and information services in the Lima area.***

Allen County Health Department -- 219 East Market Street; (419) 228-4457 (testing on Tuesdays 4:00 p.m. - 5:30 p.m. and Fridays 2:30 p.m. - 3:30 p.m.; also does testing for other STDs; provides birth control education)

Allen County American Red Cross -- 610 South Collett Street; (419) 227-5121 (testing on the first Wednesday of each odd month from 10:00 a.m. -12:00 p.m.)

Information and Referral:

Ohio Aids Hotline -- 1-800-332-2437

National Aids Hotline -- 1-800-342-2437

Drug Treatment Referral -- 1-800-662-4357

Aids Resource Center (“ARC”) -- 329 N. West St., Suite B; (419) 222-0827 or 1-800-252-0827 (provides prevention, education and support services for persons infected, affected or at risk of HIV and AIDS; acts as the primary resource for persons infected with HIV/AIDS by providing case management, housing assistance, support services, education, information and referrals; provides financial assistance with housing, utilities, HIV/AIDS related health services, health insurance payment plans and HIV/AIDS related medications for those with HIV/AIDS who qualify)

Meningitis Information -- [www.nmaus.org](http://www.nmaus.org)

***The following information is a listing of some of the available social services in the Lima area.***

Goodwill Industries – 2350 Allentown Road; (419) 228-4821; or 2100 Harding Hwy.; (419) 224-0091

Salvation Army Thrift Store -- 614 E. Market; (419) 224-9055

St Vincent de Paul/God’s Storehouse -- 105 W. Pearl, Wapakoneta, Ohio; (419)738-7456 (Provides one-time assistance with bills, rent, and prescriptions; food pantry; call for eligibility requirements)

Our Daily Bread Kitchen -- 125 S. Central; (419) 224-2086

West Ohio Food Bank -- 1380 E. Kibby St.; (419) 222-7946

## **Appendix B**

UNOH makes the following definitions available under the Violence Against Women Act Amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”). The definitions below may contain summaries of the statutory definitions. For the verbatim statutory definitions applicable under the Violence Against Women Act, see <https://www.law.cornell.edu/uscode/text/34/12291>. See, also, The Handbook for Campus Safety and Security Reporting, 2016 Edition, U.S. Department of Education, Office of

Postsecondary Education, <https://www2.ed.gov/admins/lead/safety/handbook.pdf>. These definitions are intended to supplement those contained in the body of this Policy. For purposes of this Policy, to the extent any definition set forth in this Appendix B may conflict with a definition contained in the Policy, the definition in the body of the Policy is intended to supersede this Appendix to the extent permitted by applicable law.

“Domestic Violence” -- Includes felony or misdemeanor crimes 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 receiving grant monies; 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.

“Dating Violence” -- 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 upon consideration of the following factors:
  - (i) the length of the relationship;
  - (ii) the type of relationship;
  - (iii) the frequency of interaction between the individuals involved in the relationship.

Dating violence is a crime for purposes of the Clery Act that includes, but is not limited to, physical or sexual abuse or the threat thereof, but does not include conduct falling within the definition of domestic violence.

“Sex Offenses” -- Any sexual act directed against another individual without that individual’s consent, including situations when the individual is incapable of providing consent. Sex offenses include but are not limited to:

- (a) “Fondling” - The touching of another individual’s private body parts for the purpose of sexual gratification: (1) forcibly or against such other individual’s will; or (2) not forcibly or against such other individual’s will where the other individual is incapable of providing consent due to his or her age or because of his or her temporary or permanent mental or physical incapacity.
- (b) “Incest” - Non-forcible sexual intercourse between individuals related to each other within the degrees under which marriage is prohibited under the laws of the state where the incident occurred.

(c) “Rape” - 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 victim’s consent, regardless of the gender of the victim or perpetrator. This definition includes instances when the victim is incapable of providing consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.

(d) “Statutory Rape” - Non-forcible sexual intercourse with a person who is under the statutory age of consent under the laws of the state where the incident occurred.

“Sexual Assault” -- Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

“Stalking” -- Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (a) fear for his or her safety or the safety of others; or
- (b) suffer substantial emotional distress.

Stalking is a crime for purposes of the Clery Act. Examples of stalking include, but are not limited to, monitoring, following, threatening, conducting surveillance, communicating to or about an individual, or interfering with an individual’s property that could cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

“Advisor” -- Any individual who provides the accuser or accused support, guidance, or advice.

“Awareness programs” -- Community-wide or audience-specific programming, strategies, and initiatives, that increase knowledge and share information and resources to promote safety, prevent violence, and reduce perpetration.

“Bystander intervention” -- Safe and positive options that may be carried out by an individual(s) to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes, but is not limited to, (1) recognizing situations of potential harm; (2) understanding institutional structures and cultural conditions that facilitate violence; (3) overcoming barriers to intervening; and (4) taking action to intervene.

“Ongoing prevention and awareness campaigns” -- Programming, initiatives, and strategies that are sustained over time and which focus on increasing the understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution. Such campaigns should also promote awareness of the services and programming that the University has available to address these issues; use multiple strategies in a coordinated way to reach all populations of students and employees at the University; and meet the same standards as the primary prevention and awareness programs provided to incoming students and new employees.

“Primary prevention programs” -- Programming, initiatives, and strategies intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through promotion of positive and healthy behaviors that foster healthy and mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. Examples include, but are not limited to, programs promoting good listening and communication skills, common courtesy, and moderation in alcohol consumption.

“Proceeding” -- All activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

“Programs to prevent dating violence, domestic violence, sexual assault and stalking” -- Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that are: (1) culturally relevant; (2) inclusive of diverse communities and identities; (3) sustainable; (4) responsive to community needs; (5) informed by research or assessed for value, effectiveness, or outcome; and (6) consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

“Prompt, fair, and impartial proceeding” -- A proceeding that is:

(1) completed within reasonably prompt timeframes designated by the institution’s policy, including a process that allows for delays or extensions of timeframes for good cause, with written notice to the accuser and the accused of the delay or extension and the reason for delay or extension; and

(2) conducted in a manner that:

(i) is consistent with the institution’s policies and transparent to the accuser and the accused;

(ii) includes timely notice of meetings at which the accuser or accused, or both, may be present; and

(iii) provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and

(3) conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

“Result” -- Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. This includes any sanctions imposed by the University. Notwithstanding Section 444 of the General Education Provisions Act (20 U.S.C. §1232g),

commonly referred to as the Family Educational Rights and Privacy Act (“FERPA”), the result also must include the rationale for the result and sanctions.

“Risk Reduction” -- Options designed to (1) decrease perpetration and bystander inaction; (2) increase empowerment for victims in order to promote safety; and (3) help individuals and communities address conditions that facilitate violence.

### Appendix C

Pursuant to the Violence Against Women Act amendments to the Clery Act, UNOH makes the following Ohio state law definitions available:

The following reflect Ohio state law definitions as of August 2020. Revisions to these definitions may occur from time to time. The definitions listed below contain only portions of the identified statutes. For complete versions of these statutes and to determine whether updates to the definitions below may have occurred, visit <http://codes.ohio.gov/orc/>. These definitions are intended to supplement those contained in the body of this Policy. For purposes of this Policy, to the extent any definition set forth in this Appendix C may conflict with a definition contained in the Policy, the definition in the body of the Policy is intended to supersede this Appendix to the extent permitted by applicable law.

#### **Ohio R.C. §2907.03, “Sexual Battery” (see <http://codes.ohio.gov/orc/2907.03>)**

(A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:

- (1) The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.
- (2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.
- (3) The offender knows that the other person submits because the other person is unaware that the act is being committed.
- (4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.
- (5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.
- (6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.

(7) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

(8) The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.

(9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person.

(10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.

(11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.

(12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.

(13) The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.

**Ohio R.C. §2907.02, “Rape” (see <http://codes.ohio.gov/orc/2907.02>)**

(A)

(1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:

(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.

(c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

(2) No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

**Ohio R.C. §2903.11, “Felonious Assault” (see <http://codes.ohio.gov/orc/2903.11>)**

(A) No person shall knowingly do either of the following:

(1) Cause serious physical harm to another or to another's unborn;

(2) Cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.

(B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall knowingly do any of the following:

(1) Engage in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;

(2) Engage in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome;

(3) Engage in sexual conduct with a person under eighteen years of age who is not the spouse of the offender.

**Ohio R.C. §3113.31, “Domestic violence definitions - hearings” (see <http://codes.ohio.gov/orc/3113.31>)**

(A) As used in this section:

(1) "Domestic violence" means any of the following:

(a) The occurrence of one or more of the following acts against a family or household member:

i. Attempting to cause or recklessly causing bodily injury;

- ii. Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code;
- iii. Committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code;
- iv. Committing a sexually oriented offense.

(b) The occurrence of one or more of the acts identified in divisions (A)(1)(a)(i) to (iv) of this section against a person with whom the respondent is or was in a dating relationship.

**Ohio R.C. §2903.211, “Menacing by Stalking” (see <http://codes.ohio.gov/orc/2903.211>)**

(A)

(1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

(2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, r-computer system, or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:

(a) Violate division (A)(1) of this section:

(b) Urge or incite another to commit a violation of division (A)(1) of this section.

(3) No person, with a sexual motivation, shall violate division (A)(1) or (2) of this section.