



Sex Discrimination & Sexual Harassment Policy

I. Notice of Nondiscrimination

This Sex Discrimination Policy (“Policy”) addresses all forms of sexual discrimination prohibited under Title IX and sexual harassment. Title IX is a federal law which provides that no person, on the basis of sex, shall be “excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Ohio Northern University (“ONU” or the “University”) does not discriminate or tolerate discrimination on the basis of sex, gender, transgender status, gender identity, or gender expression in its educational, extracurricular, or athletic programs, any activity that it operates, or in any admission or employment decisions, consistent with its obligations under Title IX and its regulations not to discriminate in such a manner.

The University is committed to promptly and equitably responding to all reports and formal complaints of sexual discrimination and sexual harassment, with the goal of eliminating the misconduct, preventing its recurrence, and addressing its effects on any individual or the community.

This Policy applies to allegations of sex discrimination and sexual harassment made against any individual by a member of the ONU community in connection with any ONU education program or activity, as well as allegations of sexual harassment made against any person in the United States by any person participating in or attempting to participate in ONU’s education programs or activities.¹ Any person may report sex discrimination and sexual harassment in accordance with this Policy (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment—*i.e.*, the **complainant**). Any person participating in or attempting to participate in ONU’s education programs or activities may file a formal complaint of sex discrimination or sexual harassment in accordance with this Policy. This Policy applies regardless of sexual orientation, as complainants and **respondents**—*i.e.*, the individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination or sexual harassment—may be female, male, straight, gay, lesbian, bisexual or transgendered.²

This Policy applies to sexual harassment in ONU’s education programs or activities—*i.e.*,

¹ Any person who alleges sex discrimination by a faculty member, administrator, or staff member (rather than by a student) is strongly encouraged to report complaints as described in this Policy. The Title IX team will partner with the Office of Human Resources to address the matter.

² The terms complainant and respondent apply where a report has been made or formal complaint filed and include situations in which a parent or guardian has the legal right to act on behalf of the individual.

on campus or at locations or events, or under circumstances over which ONU exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and includes any building owned or controlled by a student organization that is officially recognized by ONU. It applies in face to face encounters, social media, and other forms of electronic communication.³

The Policy is published online on the University website and a link to the Policy is emailed annually to all University email addresses. A link to the Policy is also provided in the Staff Handbook, which is electronically distributed to ONU staff. The Policy is also included in the Student Handbook, which is electronically distributed annually to all students. Additional copies are available upon request from the Office of Student Conduct and from the Office of Human Resources.

Inquiries regarding this Policy's application may be directed to the Title IX Coordinator, the Assistant Secretary of the Office for Civil Rights of the Department of Education, or both.⁴

II. **Policy Terms**

A. ***Sexual Harassment***

Sexual harassment is a form of sex discrimination and means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of ONU conditioning the provision of an aid, benefit, or service of ONU on an individual's participation in unwelcome sexual conduct—*i.e.*, *quid pro quo* sexual harassment;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to ONU's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking.

The "conditioning" or "bargain" proposed in *quid pro quo* harassment may be express or implied from the circumstances. The inquiry into whether sexual conduct is unwelcome does not equate to whether an individual consented to the sexual conduct. When a complainant acquiesces to unwelcome conduct to avoid potential negative consequences, such "consent" does not necessarily mean that the sexual conduct was not "unwelcome" or that *quid pro quo* harassment did not occur. Whether conduct is considered to be "unwelcome" is a subjective inquiry (*i.e.*, whether the complainant viewed the conduct as unwelcome).

Sexual harassment encompasses both unwelcome conduct of a sexual nature, as well as other forms of unwelcome conduct on the basis of sex.

³ This Policy governs allegations of sex discrimination as defined above, and supersedes any related College-specific policy or procedure, including the Pettit College of Law's Code of Professional Responsibility.

⁴ See Section III.B below for contact information.

Elements of severity, pervasiveness, and objective offensiveness are evaluated in light of the known circumstances and depend upon the facts of each situation and are determined from the perspective of a reasonable person standing in the shoes of the complainant. Whether conduct is so severe, pervasive, and objectively offensive depends upon the surrounding circumstances, expectations, and relationships, including, but not limited to, the ages, number, disability status, and positions of authority of the individuals involved, among other factors.

Sexual assault is defined under the Clery Act as an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation (“UCR”).

UCR defines a **forcible sex offense** as a sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent and includes the following:

- **Forcible rape** – the carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her/their temporary or permanent mental or physical incapacity.
- **Forcible sodomy** – oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.
- **Sexual assault with an object** – to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.
- **Forcible fondling** – the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her/their youth or because of his/her/their temporary or permanent mental or physical incapacity.

UCR defines a **nonforcible sex offense** as unlawful, nonforcible sexual intercourse and includes the following:

- **Incest** – nonforcible sexual intercourse between two persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory rape** – nonforcible sexual intercourse with a person who is under the statutory age of consent.

Dating Violence is defined under the Violence Against Women Act (“VAWA”) as:

- Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim/survivor; and
- Where the existence of such a relationship shall be determined based on consideration of the following factors:
 - the length of the relationship;
 - the type of relationship; and
 - the frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence below.

Domestic violence is defined under VAWA as:

- Felony or misdemeanor crimes of violence committed:
 - by a current or former spouse or intimate partner of the victim/survivor;
 - by a person with whom the victim/survivor shares a child in common;
 - by a person who is cohabitating with or has cohabitated with the victim/survivor as a spouse or intimate partner;
 - by a person similarly situated to a spouse of the victim/survivor under the state’s domestic or family violence laws; or
 - by any other person against an adult or youth victim/survivor who is protected from that person’s acts under the state’s domestic or family violence laws.⁵

Stalking is defined under VAWA as:

- Engaging in a course of conduct,
- Directed at a specific person,
- That would cause a reasonable person to
 - fear for his or her safety or the safety of others, or
 - to suffer substantial emotional distress.

Stalking may include repetitive and menacing pursuit, following, harassment and/or interference with the peace and/or safety of another.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include, but are not limited to:

- Unwelcome and repeated visual or physical proximity to a person;

⁵ See Ohio Revised Code 2919.25 and Ohio Revised Code 3113.31 for the state law definition of Domestic Violence.

- Repeated oral or written threats;
- Extortion of money or valuables;
- Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on online bulletin boards;
- Unwelcome/unsolicited communications about a person, his or her family, friends, or coworkers;
- Sending or posting unwelcome/unsolicited messages with an assumed identity;
- Implicitly threatening physical contact; or
- Any combination of these behaviors directed toward an individual person.

Sexual assault, dating violence, domestic violence, or stalking are inherently serious sex-based offenses. However, stalking may not always be “on the basis of sex”—*e.g.*, when a student stalks an athlete due to celebrity worship rather than sex. When stalking is “on the basis of sex”—*e.g.*, when the stalker desires to date the victim—stalking constitutes sexual harassment. Stalking that does not constitute sexual harassment may still be prohibited under ONU’s student code of conduct.

Sexual harassment may be committed by anyone in the United States, regardless of gender, age, intent, position, relationship, or authority, in an ***educational program or activity*** of ONU. An educational program or activity includes locations, events, or circumstances over which ONU exercised substantial control over both the respondent and the context in which the sexual harassment occurs, as well as any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.⁶

Sexual harassment also includes harassment based on gender, sexual orientation, transgender status, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

It is important to the University that individuals feel free to come forward and seek assistance before issues of sexual harassment become severe, pervasive, and objectively offensive. Reports of sexual harassment that do not rise to the level of severe, pervasive, and objectively offensive may still be investigated and addressed by the University under other policies, so as to prevent further incidents from occurring. Also, in appropriate circumstances a formal complaint may be signed by the Title IX Coordinator, *e.g.* where complainant does not wish to participate in the grievance process.

B. Consent

Consent means informed, freely given agreement, communicated by clearly understandable words or actions, to participate in each form of sexual activity.

Guidance for determining consent:

⁶ This Policy does not have extraterritorial application and does not extend to sexual harassment in study abroad programs or in private, off-campus settings. Other ONU policies may apply in such circumstances.

- Consent cannot be inferred from silence, passivity, or lack of active resistance.
- A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.
- By definition, there is not consent when there is force or violence or a threat of force or violence or any other form of coercion or intimidation, physical or psychological.
- Either person may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
- A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor; the lack of informed, freely given consent to sexual contact constitutes sexual misconduct.
- Intoxication is not an excuse for failure to obtain consent.
- A person incapacitated by alcohol or drug consumption, or who is unconscious or asleep or otherwise physically or mentally impaired, is incapable of giving consent.
- A person who is below the legal age of consent is incapable of giving consent.

C. *Incapacitation*

Incapacity occurs when a person is temporarily or permanently impaired by mental and/or physical deficiency, disability, illness, sleep, unconsciousness, or by the use of drugs or alcohol to the extent the person cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing/informed consent (*e.g.*, to understand the “who, what, when, where, why or how” of his or her sexual interaction).

Sexual activity with someone the respondent knew to be or should have known to be incapacitated constitutes a violation of this Policy. The question of whether the respondent should have known the complainant was incapacitated is based on what a reasonable person in the place of the respondent, sober and exercising good judgment, would have known about the condition of the complainant.

An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this Policy.

III. Reports and Formal Complaints

All individuals, including students and members of the ONU community, are obligated to promptly report any incidents of sex discrimination or sexual harassment as set forth in this Policy. A formal complaint, as defined in Section III.G below, is not required to make a report of sex discrimination or sexual harassment and initiate a response by

ONU, including the offering and providing of supportive measures, as defined in Section III.E below.

The ONU officials who have authority to institute corrective measures on behalf of ONU and who receive notice or actual knowledge of sexual harassment in one of ONU's education programs or activities and are required to act upon notice or knowledge are listed as follows: Title IX Coordinator, Deputy Title IX Coordinators, Human Resources Director, Vice President of Student Affairs, Athletic Director and the Director of Student Conduct. An ONU official who has authority to institute corrective measures on behalf of ONU and who receives notice or actual knowledge of sexual harassment in one of ONU's education programs or activities, is required to promptly report any incidents or allegations of sex discrimination and sexual harassment that they become aware of, directly or indirectly. Reporting allows **complainants**—*i.e.*, alleged victims of conduct that could constitute sexual harassment—to receive supportive measures and helps to maintain a safe campus environment.

A. Reporting Sex Discrimination and Sexual Harassment

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report, including reporting to any member of the Title IX team listed in Section III.B below. A report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

ONU officials who have authority to institute corrective measures on behalf of ONU and who receive notice or actual knowledge of sexual harassment in one of ONU's education programs or activities are required to promptly report incidents or allegations of sex discrimination and sexual harassment to the University's Title IX Coordinator or Deputy Title IX Coordinators listed in Section III.B below.

If you are a student, you may also report to: Adriane Thompson Bradshaw, Vice President for Student Affairs & Dean of Students, at (419) 772-2433, any member of the Residence Life Staff at (419) 772-2401, Public Safety at (419) 772-2222, or to the anonymous Campus Conduct Hotline at (866) 943-5787.

If you are an ONU employee and not an ONU official who has authority to institute corrective measures on behalf of ONU and who receives notice or actual knowledge of sexual harassment in one of ONU's education programs or activities, you may also report to Tonya Paul, Director of Human Resources, at (419) 772-3106, or to the anonymous Campus Conduct Hotline at (866) 943-5787.

B. Title IX Coordinator and Team

The Title IX Coordinator is the designated University official with primary responsibility for receiving reports and formal complaints of sex discrimination and sexual harassment, signing

formal complaints, and generally coordinating the University's compliance with Title IX. The Title IX Coordinator oversees the University's response to reports and formal complaints of sex discrimination and sexual harassment, including supportive measures. The Title IX Coordinator will coordinate the provision of educational materials and training for the campus community. Finally, the Title IX Coordinator will ensure a fair and neutral process for all parties and monitor all other aspects of the University's Title IX compliance. If the Title IX Coordinator is unavailable or has a potential conflict of interest or bias, then Deputy Title IX Coordinators are also available to address Title IX issues and are authorized to perform tasks and responsibilities that would normally be performed by the Title IX Coordinator. The following individuals have been designated to handle Title IX issues and questions:

Title IX Coordinator:

Liannie G. Parahoo
Assistant Director of Legal Clinics and Staff Attorney
ONU Legal Clinic
121 W. High St., Ste 700
Lima, Ohio 45801
(419) 227-0061
l-parahoo@onu.edu

Deputy Title IX Coordinator:

Brian Hofman
Associate Professor of Sport Management,
Dicke 123
525 S. Main St.
Ada, Ohio 45810
(419) 772-1878
b-hofman@onu.edu

Deputy Title IX Coordinator:

Linda Young
Professor of Biological Sciences
Meyer Hall of Science Office 172
Ada, Ohio 45810
(419) 7722438
l-young@onu.edu

C. Confidential Resources

A complainant who wishes to confidentially discuss an incident or allegation of sex discrimination or sexual harassment without formally reporting it to the University may contact the ONU departments listed below. These departments are not subject to the mandatory reporting requirement:

ONU Counseling Center
(419) 772-2190
Anthony Rivera – Director (a-rivera@onu.edu),

Rebecca Diller – Assistant Director (r-diller@onu.edu),
Marcia Kostoff – Mental Health Counselor (m-kostoff@onu.edu), or
Marcey Bell – Mental Health Outreach Coordinator (m-bell.5@onu.edu).

ONU Health Center
(419) 772-2086
Karen Schroeder – Director (k-schroeder.5@onu.edu)

ONU Chaplain
(419) 772-2200
David MacDonald – University Chaplain (d-macdonald@onu.edu)

The above employees will maintain confidentiality, except in cases of immediate threat or danger, or abuse of a minor. ONU has established a Policy for the Protection of Minors which provides guidelines for those in the University community who may work or interact with individuals under 18 years of age, with the goal of promoting the safety and well-being of minors. ONU will comply with all state mandated reporting laws relating to minors.

A complainant who elects to speak with the confidential resources identified above must understand that confidentiality will generally preclude the Title IX Team's and Office of Human Resource's actual knowledge of the incident and, therefore, the ability to implement supportive measures, conduct an investigation, and/or pursue disciplinary action against the respondent. Should a complainant later decide to report or file a formal complaint with the University pursuant to Sections III.A and III.G, ONU would respond in accordance with this Policy, including Sections III.E and IV at that time.

D. Reporting Complaints to Law Enforcement or the Office of Civil Rights

Instances of sex discrimination or sexual harassment may violate both this Policy and the law. As a result, the University encourages complainants to pursue their complaints through both this Policy and through the criminal justice system. Complainants have the option to notify or decline to notify law enforcement authorities, if they so choose.

The Village of Ada, Ohio is served by two local law enforcement agencies: the Village of Ada Police Department and the Hardin County Sheriff's Office. Individuals wishing to make a police report may contact one of those law enforcement agencies at any time.

The Village of Ada Police Department, located at 155 West Buckeye Avenue, Ada, Ohio 45810, has staffed hours of 8:00 am to 4:00 pm, Monday through Friday. An individual may appear at the department during those hours to make a police report in person. No appointment is necessary. The Ada Police Department may also be reached at (419) 634-0010. This number can be used 24 hours a day. If a call is placed outside of the Police Department's hours of operation, the call will be forwarded to the Hardin County Sheriff's Office's dispatch center. For calls forwarded to the Sheriff's Office, a deputy will be dispatched to make a report at the location of the caller.

The Hardin County Sheriff's Office, located at 1025 S. Main Street, Kenton, Ohio 43326, has staffed hours of 8:00 am to 4:00 pm, Monday through Friday. An individual may appear at the department during those hours to make a police report in person. No appointment is necessary. The Hardin County Sheriff's Office may also be reached at (419) 673-1268. This number can be used 24 hours a day.

For emergencies, always dial 911.

Additionally, the U.S. Department of Education's Office of Civil Rights is charged with enforcing Title IX compliance. Inquiries about Title IX issues may be referred to the Office for Civil Rights/Cleveland at U.S. Department of Education, 1350 Euclid Avenue, Suite 325, Cleveland, Ohio 44115 or by calling (216) 522-4970.

E. Offering and Providing Supportive Measures

Where the Title IX Coordinator or Deputy Title IX Coordinators receives a report of an incident or allegation of sex discrimination and sexual harassment from any individual, including an ONU official who has authority to institute corrective measures on behalf of ONU or complainant, the Title IX Coordinator will promptly contact the complainant to discuss the availability of ***supportive measures*** and inform the complainant of the availability of such supportive measures with or without filing of a formal complaint. The Title IX Coordinator will also explain to the complainant the process for filing a formal complaint, as outlined in Section III.G below.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to ONU's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or ONU's educational environment, or deter sexual harassment. Supportive measures may include, but are not limited to, the following:

- Assistance finding confidential counseling and support either through the ONU Counseling Center or through referrals to an outside agency.
- Assistance finding confidential medical services.
- Academic accommodations, which may include a change in class schedule, taking an incomplete or dropping a course without penalty, attending a class via electronic or other alternative means, or extending deadlines for assignments.
- Housing accommodations, which may include changes in residential status, changes in room assignment, or temporary accommodations in a residential safe room.
- Employment accommodations, such as change in work assignment or schedule.
- Escort services from ONU Public Safety.
- Making personal information (such as directory information) unavailable through the Registrar's office.
- Mutual restrictions on contact between parties—*e.g.*, a no-contact order.

- Leave of absence
- Increased security monitoring of certain areas of campus.
- Other similar measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures and will consider the complainant's wishes with respect to supportive measures.

ONU will maintain the confidentiality of any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of ONU to provide the supportive measures. To the extent an individual chooses to report an incident or allegation of sex discrimination or sexual harassment anonymously or without disclosing the identity of the complainant and/or the respondent, ONU will be unable to provide supportive measures to the complainant and/or consider whether to initiate the grievance process against a respondent in response.

F. Emergency Removal & Administrative Leave

In addition to implementing supportive measures set forth in Section D above, in emergency situations that arise out of allegations of conduct that could constitute sexual harassment, ONU may elect to remove the respondent from ONU's education programs or activities. Removal may be made only after ONU conducts an individualized safety and risk analysis and concludes 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. Removal may take place before an investigation into sexual harassment allegations concludes or where no grievance process is pending.

Where ONU elects to remove a respondent from its education programs or activities, it will provide the respondent with notice and an opportunity to challenge the decision immediately following removal.

Where a respondent is a non-student employee, ONU may elect to place the respondent on administrative leave during the pendency of a grievance process under Section IV.

G. Formal Complaints of Sex Discrimination and Sexual Harassment

While ONU will promptly and meaningfully respond to reports of sex discrimination and sexual harassment as outlined in Section III.E above, only a **formal complaint** will prompt an investigation and grievance process outlined in Section IV below. A formal complaint is a **document filed by a complainant** or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that ONU investigate the allegation of sexual harassment. A document filed by a complainant is a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicated that the complainant is the person filing the formal complaint. In the case of a minor or legally incompetent person, parents or legal guardians may also act on behalf of a complainant, respondent, or other party, including with respect to filing a formal complaint.

Third parties are not permitted to file formal complaints and formal complaints cannot be filed anonymously. However, where the complainant's identity is unknown—*e.g.*, where a third party has made a report—the grievance process may proceed if the Title IX Coordinator determines it is necessary to sign a formal complaint.⁷ Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party. Where the Title IX Coordinator signs a formal complaint knowing that the complainant did not wish to do so, ONU will respect the complainant's wishes regarding whether to participate or not in the grievance process.

Filing of a formal complaint with the Title IX Coordinator may be accomplished in person, by mail, or by electronic mail, by using the contact information of the Title IX Coordinator listed in Section III.B above.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the educational program or activity of the recipient with which the formal complaint is filed.

H. Confidentiality of Reports and Formal Complaints

ONU will keep confidential the identity of any individual who has made a report or formal complaint of sex discrimination or sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination or sexual harassment, any respondent, and any witness, except under the following circumstances:

- As may be permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99;
- As required by law; or
- To carry out the purposes of the Title IX regulations, 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

While consent from a complainant is not required, The Title IX Coordinator, Title IX Deputy Coordinators, or designee will seek consent from the complainant before the Title IX Coordinator signs a formal complaint and pursues the grievance process. To the extent possible and consistent with the above exceptions, disclosure of any information relating to a formal complaint will be limited to the individuals conducting the University's investigation or resolving the complaint.

If the complainant requests confidentiality or asks that the complaint not be pursued or that the University stop the investigation process, the University will inform the complainant that its ability to respond may be limited as a result, but that it will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or the

⁷ The Title IX Coordinator may sign a formal complaint and a formal complaint may proceed when without the consent of the complainant in order to initiate an investigation and adjudication of sex discrimination or sexual harassment in order to protect the ONU community or otherwise avoid being deliberately indifferent to known sexual harassment.

request not to pursue an investigation. The University will also inform the complainant that Title IX prohibits retaliation and that it will take actions to prevent retaliation and take strong action against anyone who engages in retaliation, as well as the complainant's right not to participate in the grievance process.

The University must weigh requests for confidentiality and/or requests that no action be taken against the University's obligation to provide a safe, non-discriminatory environment for all members of the University community, including the complainant. The University may not be deliberately indifferent to known sexual harassment. The University will likely be unable to honor a request for confidentiality or a request that no action be taken in cases indicating pattern, predation, weapons, violence, or if a minor is involved.

If the University determines that it can honor a complainant's request for confidentiality and/or request that no action can be taken, the University will attempt to pursue other steps to limit the effects of the alleged sex discrimination or sexual harassment and prevent its recurrence.

I. Amnesty for Reporting Sex Discrimination or Participating in an Investigation

The University recognizes that an individual who has been drinking alcohol, using drugs, or engaging in other misconduct at the time a potential act of sex discrimination occurs may be hesitant to make a report, file a formal complaint, or to participate in an investigation because of potential consequences for him/her. It is in the best interests of the ONU community that reporting parties choose to report incidents and allegations of sexual discrimination and sexual harassment, that all parties participate in an investigation, and that witnesses come forward to share what they know.

Students: A student who reports sex discrimination or sexual harassment, either as a complainant or a third-party witness, will not be subject to disciplinary action by the University for his/her/their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. Any student who participates in an investigation and grievance process, either as a complainant, respondent, or a third-party witness, will not be subject to disciplinary action by the University for his/her/their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

Faculty/Administrative/Support Staff: Sometimes employees are also hesitant to report or offer assistance to others for fear that they might be disciplined for their conduct, including alcohol and/or drug use. ONU may, at its discretion, offer employee reporting parties' amnesty from such policies related to the incident. Amnesty may also be granted to witnesses on a case-by-case basis.

J. Bystander Intervention

The University encourages all community members to take reasonable actions to prevent,

stop, and/or report an act of sex discrimination or sexual harassment under this Policy. Taking action may include direct intervention, calling University Security or law enforcement, or seeking assistance from an appropriate University employee. The University provides annual programming on how to safely take action.

IV. Grievance Process

A. Equity in the Grievance Process

The grievance process treats complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent by following the grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures. Respondents are presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

The Title IX Coordinator (or the Deputy Title IX Coordinator if designated), investigator(s), any decision-maker(s), including any appellate decision maker(s), and any person designated to facilitate an information resolution process may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

B. Written Notice of Allegations

Upon receipt of a formal complaint, ONU will provide written notice to known parties that includes the following:

- Notice of this grievance process;
- Notice of the allegations of sex discrimination or sexual harassment with sufficient details known at the time, including,
 - the identities of the parties involved in the incident, if known,
 - the conduct allegedly constituting sexual harassment, and
 - the date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney consistent with Section IV.G.2 below;
- Notice that the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint consistent with Section IV.G.5 below;
- Notice of that all persons are prohibited from knowingly making false statements or knowingly submitting false information during the grievance process; and
- Notice that making a good faith formal complaint that is not later substantiated does

not constitute providing false or misleading information.

Written notice will be provided with sufficient time to prepare a response before any initial interview.

If, in the course of the investigation, ONU decides to investigate allegations about the complainant or respondent that were not included in the written notice provided above, ONU will provide written notice of the additional allegations to known parties.

C. *Dismissal of Formal Complaint*

While ONU will investigate the allegations in formal complaints of sex discrimination or sexual harassment, it will dismiss a formal complaint where the conduct alleged:

- Would not constitute sex discrimination or sexual harassment, even if proved;
- Did not occur in ONU's education program or activity—*i.e.*, locations or events, or under circumstances over which ONU exercises substantial control over both the respondent and the context in which the sexual harassment occurs, including any building owned or controlled by a student organization that is officially recognized by ONU; or
- Did not occur against a person in the United States.

Such mandatory dismissal, however, does not preclude action under another provision of ONU's code of conduct.

ONU may dismiss a formal complaint or any allegation therein, if at any time during the investigation or hearing:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by ONU; or
- Specific circumstances prevent ONU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

For example, where the identity of a complainant is not disclosed, ONU may not be able to gather evidence necessary to establish the elements of sexual harassment, such as whether the alleged conduct was unwelcome or without consent. In such instances, ONU, in its discretion, may dismiss the complainant.

ONU will promptly notify the parties in writing of any dismissal and the reasons therefore.

D. *Time Frame and Temporary Delays*

Upon receipt of a sex discrimination or sexual harassment complaint, ONU will exercise good

faith to investigate and conclude the grievance process in a reasonably prompt time frame.

Temporary delay of the grievance process or a limited extension of time frames may be permitted for good cause. Good cause may include, but is not limited to, the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. ONU will provide written notice to the complainant and the respondent of any temporary delay or limited extension and the reasons for such action.

E. Evidentiary Standard & Evidence

Determinations regarding responsibility for all formal complaints of sex discrimination and sexual harassment, whether against a student or employee, will be made using the preponderance of the evidence standard.

Parties are provided an equal opportunity to participate fully and robustly in the investigation process by gathering and presenting evidence, including fact and expert witnesses and other evidence, reviewing the evidence gathered, responding to the investigative report that summarizes relevant evidence, and asking questions of other parties and witnesses before a decision-maker has reached a determination regarding responsibility.⁸

However, while not a party to the proceedings, ONU bears the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility provided that ONU cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless ONU obtains that party's voluntary, written consent to do so. This Policy also does not require, allow, rely upon or otherwise use questions or evidence that constitute or seek disclosure of information protected under legally recognized privilege, unless the person holding the privilege waives it.

Investigator(s) must objectively and impartially gather and present any relevant evidence to the decision-maker(s) in an investigative report, who, in turn, must objectively and impartially evaluate relevant evidence and reach a determination regarding responsibility.

All relevant evidence discovered during this grievance process, including exculpatory and exculpatory evidence, will be evaluated on an objective basis. All credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

F. Consolidation of Formal Complaints

ONU may consolidate formal complaints as to allegations of sex discrimination or sexual harassment against more than one respondent, or by more than one complainant against

⁸ Nothing in this Policy prohibits or restricts the ability of either party to discuss the allegations under investigation.

one or more respondents, or by one party against the other party, where the allegations of sex discrimination or 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.

G. Investigation of a Formal Complaint

1. Investigators

Following the receipt of a formal complaint of sex discrimination or sexual harassment, ONU’s Title IX Coordinator will designate two trained investigators to conduct the investigation. When the complaint is made by a student against an employee or is made by an employee against a student, one of the designated investigators will be a member of the Office of Human Resources. When the complaint is made by an employee against another employee, both investigators will be members of the Office of Human Resources, unless there is a conflict of interest or bias, in which circumstance the Title IX Coordinator may designate another investigator. In complex situations, the Title IX Coordinator, in consultation with the two investigators, may engage additional trained investigators to gather additional information to be considered by the primary investigators in the resolution of the formal complaint.

Investigators are responsible for objectively and impartially gathering evidence and presenting any relevant evidence to the decision-maker(s) in an investigative report as set forth in Section IV.G.6 below.

The investigation shall be conducted promptly and will be conducted in a manner that is thorough and impartial.

2. Choice of Advisor

In any related meeting or grievance proceeding, the parties have an equal opportunity to be accompanied by the advisor of their choice, who may be, but is not required to be, an attorney. An advisor may be a member of the ONU community, an attorney, or another individual not affiliated with ONU. During any related meeting or proceeding, however, an advisor’s role is limited. Except as permitted during hearings as set forth in Section IV.H below, an advisor is not permitted to engage in the grievance process on the party’s behalf or participate directly in any related meeting or proceeding. An advisor may quietly consult with his or her advisee during a related meeting or proceeding in a manner that does not disrupt or interfere with the meeting or proceeding. If an advisor fails to act in accordance with these procedures, he or she may be asked to leave the meeting or proceeding.

3. Gathering of Evidence

For allegations of sex discrimination or sexual harassment, a full investigation will be conducted. During the investigation, both the complainant and the respondent may present

written and oral statements, names of witnesses, and other evidence to the investigators. The complainant, respondent, and witnesses may be interviewed as part of the investigation. Neither complainant, respondent, witnesses, and/or anyone acting on their behalf may record interviews or any other proceeding during the investigatory process. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. Follow-up interviews will be conducted by the investigators as needed.

All parties and witnesses are expected to provide truthful information. Knowingly providing false or misleading information is a violation of ONU's policy and can subject a student or employee to disciplinary action. Making a good faith report to ONU that is not later substantiated does not constitute providing false or misleading information.

All parties are expected to participate and cooperate in the investigation, including submitting to any requested interview by the investigators. If any party refuses to participate or cooperate in the investigation, that person will be subject to discipline, up to and including termination or removal. The investigation will still go forward if a respondent refuses to participate or cooperate.

4. *Notice of Interviews and Hearings*

ONU will provide written notice of the date, time, location, participants, and purposes of all investigative interviews, hearings, or other meetings, to a party whose participation is invited or expected. Such notice will be provided with sufficient time for the party to prepare to participate.

5. *Inspection and Review of Evidence*

All parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Prior to completion of the investigative report set forth in Section IV.G.6 below, ONU 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, with any redactions required by the Family Educational Rights and Privacy Act ("FERPA"). The parties will have at least 10 days to submit a written response, which the investigators will consider prior to completion of the investigative report.

ONU shall make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

6. *Investigative Report*

ONU will create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (if a hearing is required under this section or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, with any redactions required by FERPA, for their review and written response.

The Title IX Coordinator or designee will review the draft initial investigative report and may request additional investigation or revisions to the draft initial investigative report to ensure the investigation and initial investigative report are adequate, reliable and impartial.

The final investigative report will include all the written responses provided by the parties involved, with any redactions required by FERPA.

H. Live Hearings

1. Cross Examination

Both parties have an equal opportunity to cross examine the other party and any witnesses—*i.e.*, to ask relevant questions and follow-up questions, including those challenging credibility—through the party's advisor. Cross examination must be conducted directly, orally, and in real time by the party's advisor. A party may never personally cross examine another party or witnesses.

If a party does not have an advisor present at the live hearing, ONU will provide an advisor of ONU's choice, who may or may not be an attorney, without fee or charge, to conduct cross examination on behalf of the party.

Only relevant cross examination and other questions may be asked of a party or witness. As such, before a party or witness answers a cross examination or other question, the decision maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Where a party or witness does not submit to cross examination at the live hearing, the decision maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, decision maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

Cross-examination that may reveal faulty memory, mistaken beliefs, or inaccurate facts about

allegations does not mean that the party answering questions is necessarily lying or making intentionally false statements. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the decision maker, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party.

2. *Virtual and Remote Hearings*

Live hearings may be conducted with all parties physically present in the same geographic location or, at ONU's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

At the request of either party, ONU will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision maker(s) and parties to simultaneously see and hear the party or the witness answering questions.

3. *Record of Hearing*

All live hearings, whether they occur in person or virtually, will be recorded via audio or audiovisual recording or transcribed. Such recording or transcript will be made available to the parties for inspection and review.

1. Informal Resolution

1. Use of Informal Resolution

Where a formal complaint is filed, and at any time prior to reaching a determination regarding responsibility, ONU may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. An informal resolution process may not be utilized unless:

- The parties are provided written notice that discloses the following:
 - 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;
- The parties provide voluntary, written consent to the informal resolution process; and

An informal resolution process may not be utilized to resolve allegations that an employee

sexually harassed a student.

2. *Informal Resolution Process*

Where an informal resolution process may be utilized in accordance with Section IV.I.1 above, such process will be overseen by one or more members of the Title IX team or its designee. The parties to any such informal process will not be required to deal directly with one another.

At any time prior to agreeing to a resolution under this process, any party may withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. In addition, any party can resume the grievance process where the party is dissatisfied with a proposed informal resolution. Finally, as described above, the University may elect to pursue a formal resolution process even if the complainant does not wish a formal resolution.

The complainant and respondent have the right to an advisor as set forth in Section IV.G.2 above.

If either party has a disability that necessitates assistance in the informal resolution process, he or she may seek guidance and request accommodation through the Title IX Coordinator.

J. *Determination Regarding Responsibility*

1. *Decision Makers*

The final investigative report will include all the written responses provided by the parties involved, with any redactions required by FERPA, and will then be provided to one or more trained Decision Maker(s) designated by the Title IX Coordinator for decision as described below. The Decision Maker may not be the same person as the Title IX Coordinator or the investigator(s).

If the respondent is a faculty member, the Decision Maker will be a member of the Administration, as the Administration has the right to discipline faculty members for just cause pursuant to Section 2.10 Discipline of Faculty Members of the Faculty Handbook. A violation of this Policy constitutes just cause for discipline.

Decision Makers are responsible for reviewing the investigative report, conducting the live hearings set forth in Section IV.H above, making a determination regarding responsibility, and determining remedies and sanctions. In reaching a determination, the decision maker(s) will apply the preponderance of the evidence standard as set forth in Section IV.E above. The Decision Maker will determine, based on the complete record and applying a preponderance of the evidence standard, whether or not the evidence is sufficient to support a conclusion that the conduct occurred and that there was a violation of this Policy. If the Decision Maker determines that there was a violation, the Decision Maker will also determine the appropriate remedies and sanctions that should be imposed.

If the complainant and/or respondent has a disability that necessitates assistance in the grievance process, he or she may seek guidance and request accommodation through the Title IX Coordinator.

2. Written Determination Regarding Responsibility

The Decision Maker must issue a written determination regarding responsibility simultaneously to the parties that must include the following:

- Identification of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of ONU's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the respondent, and whether remedies designed to restore or preserve equal access to ONU's education program or activity will be provided to the complainant; and
- ONU's procedures and permissible bases for the complainant and respondent to appeal.

The Title IX Coordinator is responsible for effective implementation of any remedies herein.

The determination regarding responsibility becomes final either on the date that ONU provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

K. Appeals

Either the complainant or the respondent may appeal any determination and/or sanction of the decision maker or any dismissal of a formal complaint or any allegations therein to the Appeal Panel only on the following bases:

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

The Appeal Panel consists of three members, composed of University administrator(s), faculty member(s), and/or staff, appointed by the President of the University provided that no member of the Appeal Panel is an investigator, the Title IX Coordinator, or the decision maker

that reached a determination regarding responsibility or dismissal. The members of the Appeal Panel shall select from among its number a Chair who shall keep a record of the proceedings. The Appeal Panel shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

The procedures for an appeal are as follows:

1. *Filing the Appeal*

The appeal must be made in writing to the Title IX Department.

The appeal must be made within five (5) university business days from when the parties receive the written decision of the Decision Maker, including the day on which the party receives the written decision. If an appeal is not filed within this time frame, the right to appeal is waived and the determination and/or sanction of the Decision Maker or any dismissal of a formal complaint or any allegations therein becomes final.

ONU will promptly notify the other party in writing when an appeal is filed.

2. *Review and Approval of the Appeal*

The appeal will be reviewed by the Chair of the Appeal Panel for scope. The scope of the appeal, as identified by the appellant, will be limited to bases outlined above.

The Chair of the Appeal Panel will have five (5) university business days to determine the permissibility of the appeal.

If an appeal is denied by the Chair of the Appeal Panel, the parties will be notified in writing within five (5) university business days and the Title IX Department will retain a record of the denial. Denial of the appeal means the disposition of the formal complaint by the decision maker is upheld.

If an appeal is permitted by the Chair of the Appeal Panel, the parties will be notified in writing within five (5) university business days.

3. *Appeal Procedure*

The parties shall prepare written statements in support of, or challenging the outcome, including all relevant information and arguments, and deliver them to the chair.

The written statements must be delivered within five (5) university business days of receipt of the notice that permission to appeal was granted, including the date of receipt.

After review of the record and the statements of the parties, the Appeal Panel shall decide the matter by upholding the determination of the Decision Maker, reversing the determination of the Decision Maker, upholding and/or modifying the sanction(s), or

remanding the matter for further investigation/analysis.

The Appeal Panel shall render its decision by a simple majority vote of the members. The decision of the Appeal Panel to uphold the determination, reverse the determination, or uphold and/or modify sanction(s) is final, except as provided in section IV.M. If the matter is remanded, the process will repeat, generally beginning at the appropriate stage of the investigation or adjudication as indicated by the Appeal Panel's remand.

The written decision of the Appeal Panel describing the result of the appeal and the rationale for the result will be sent simultaneously to both parties, typically within five (5) university business days following the Appeal Panel's determination. If there is a delay in issuing the decision, both the complainant and respondent will receive written notification of the delay and the reasons for the delay. Complainant will be informed of any specific sanctions imposed on respondent directly relating to the complainant in a manner consistent with the requirements of FERPA.

L. Remedies and Disciplinary Sanctions

This grievance process treats complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process prior to the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

ONU is committed to taking action to eliminate all sex discrimination and sexual harassment. Where a determination of responsibility for sex discrimination or sexual harassment has been made against the respondent, remedies are designed to restore or preserve equal access to ONU's education programs or activities, to stop the conduct, prevent its recurrence, and address its effects. Such remedies may include the same individualized services that constitute supportive measures in Section III.E above, but may also be disciplinary or punitive and need not avoid burdening the respondent. To that end, when determining the appropriate remedies or sanctions to be imposed, consideration shall be given to the principle that the sanctions should be proportionate to the offense and seek to provide a remedy to the complainant and to prevent recurrence of the offense for the protection of the campus community. Any student or employee determined to be responsible for violation of this Policy should expect the imposition of remedies and/or sanctions.

Any sanction imposed by the Decision Maker will be paused during a subsequent appeal process.

Remedies and sanctions for students may include dismissal, withheld suspension, social probation, a no contact order, restrictions, restitution, and notification to other members of the University community as appropriate, educational requirements, and other remedies and sanctions determined by ONU to be appropriate.

Remedies and sanctions for employees may include termination, suspension, removal from

campus, cancellation of contract, written reprimand, oral reprimand, and other remedies and sanctions determined by ONU to be appropriate.

M. Sanctions of Faculty Members

If the respondent is a tenured faculty member or a non-tenured or renewable appointment-track faculty member, and the Appeal Panel upholds a sanction of dismissal, such faculty member shall be accorded all rights provided by section 2.7 of the Faculty Handbook. In such case, the entire record of the hearing and appeal shall be provided to the faculty hearing committee. If the Appeal Panel upholds a lesser sanction, or there is no appeal, such result shall constitute just cause for discipline under section 2.10 of the Faculty Handbook, and the findings of the Decision Maker or Appeal Panel are final.

N. Retaliation

ONU prohibits retaliation—*i.e.*, intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or this Policy, constitutes retaliation.

Retaliation does not include the exercise of First Amendments rights or a code of conduct violation charge for making a materially false statement in bad faith in the course of a grievance proceeding.⁹

Retaliation should be reported immediately to a member of the Title IX team and will be promptly investigated. Retaliation may be treated as an independent instance of discrimination and is considered a serious violation of ONU policy. ONU is prepared to take appropriate steps to protect individuals who believe they have been subjected to retaliation. Individuals found to have engaged in retaliation may face disciplinary action, up to and including dismissal or termination.

O. Documentation and Recordkeeping

Where the Title IX Coordinator or a Deputy Title IX Coordinator receives a report of an incident or allegation of sex discrimination and sexual harassment or a formal complaint is filed, ONU will create records of any actions, including any supportive measures, taken in response to a report or formal complaint. In each instance, ONU will document the basis for its conclusion that its

⁹A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

response was not *deliberately indifferent*, and document that it has taken measures designed to restore or preserve equal access to ONU's education program or activity. Deliberate indifference occurs only where a response to sexual harassment is clearly unreasonable in light of the known circumstances. Where supportive measures are not provided to a complainant, ONU will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The foregoing documentation, as well as the following, will be maintained by ONU for a period of seven years:

- Each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript;
- Any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to ONU's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, decision makers, any person who facilitates an informal resolution process, and members of the Appeal. ONU will make these training materials publicly available on its website.

P. Education and Training

Education and training on this Policy is provided annually to the University community.

All new students are required to complete the mandatory training, which covers sex discrimination, sexual harassment, alcohol and drug policies. This information is also covered with all incoming students during their orientation via a presentation by the Office of Student Conduct and the Title IX Office. Ongoing prevention and awareness programming on issues involved in sex discrimination and sexual harassment is offered to all students and employees throughout the year.

Training for University employees on this Policy is a requirement of each and every employee on campus and must be renewed on an ongoing basis.

Title IX Coordinators, investigators, decision makers, any person who facilitates an informal resolution process, and members of the Appeal Panel will receive annual training focused on this Policy and the proper handling cases of sex discrimination and sexual harassment, including but not limited to the following:

- The definition of sexual harassment;
- The scope of the recipient's education program or activity;
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes; and
- How to serve impartially, including by avoiding prejudgment of the facts at issue,

conflicts of interest, and bias.

Title IX Coordinators, investigators, decision makers, any person who facilitates an informal resolution process, and Appeal Panel members will receive training on the definition of sexual harassment, the scope of ONU's education programs and activities, how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Decision makers will also receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in Section IV.H.1 above.

Investigators will also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth Section IV.G.6 above.

First responders, such as ONU Security and Office of Student Conduct staff receive regular, ongoing training focused on working with complainants of sex discrimination and sexual harassment.

Training materials will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.

Q. Victim/Survivor Support Information

The University is committed to providing support for students and employees who have been victims/survivors of sex discrimination. Below is a brief description of resources available.

Supportive measures as detailed in Section III.E of this policy.

Additionally, a victim/survivor may seek advocacy or counseling support from one of the outside agencies listed below:

- Crime Victim Services
Lima, OH
Pamela Silver
Crime Victim Services
Office: 419-222-8666
Direct Line: 567-940-8271
Email: pamelas@crimevictimservices.org
- Open Arms Domestic Violence and Rape Crisis Services
Findlay, OH
24 Hour Crisis Hotline: (419) 422-4766

A victim/survivor may seek legal assistance from the outside agency listed below:

- Legal Aid of Western Ohio, Inc.
545 West Market Street, Suite 301
Lima, OH 45801-4565
Phone: (877) 894-4599

A victim/survivor may seek visa or immigration assistance from one of the outside agencies listed below:

- Legal Aid of Western Ohio, Inc.
545 West Market Street, Suite 301
Lima, OH 45801-4565
Phone: (877) 894-4599
- St. Wendelin Parish – En Camino (Fostoria Office)
323 North Wood Street Fostoria, OH 44830
Phone: (419) 619-3625

A victim/survivor may receive financial aid assistance from the University Financial Aid office, located at Weber Hall – 2nd Floor, (419) 772-2272.

R. Preservation of Evidence

If you are a victim of sexual assault, dating violence, domestic violence, for your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible by a medical professional is important for preserving evidence, which may be necessary to assist in proving sexual assault, dating violence and domestic violence.