

Resolution to Revise the Faculty Handbook as Required by Changes in Title IX

Faculty Senate

Executive Committee

Oct 9, 2023

PASSED

Whereas the federal regulations require the Title IX Coordinator to manage the investigation and adjudication of all sexual harassment and other sexual misconduct allegations

Be it resolved that the Faculty Handbook section II.P on sexual misconduct (starting on p. 54) be replaced with the following text.

II. P. Policy on Sexual Harassment and Other Sexual Misconduct

1. Sexual harassment and other sexual misconduct of students, faculty, or staff is prohibited at Ohio University as defined in the Policy and Procedures Manual No. 03.004.
2. **Relation to academic freedom.** The classroom or other instructional setting (e.g., studio, laboratory, office hours) presents special issues because academic freedom protects the expression of ideas, even where the idea or its expression is perceived to be mature, controversial, explicit, graphic, or offensive. Nevertheless, conduct that would otherwise constitute violation of this policy will not be exempt merely because it occurs in an instructional setting. Rather, the investigation will consider the legitimate pedagogical context and will take into account discipline-specific guidelines for professional practice as defined by the appropriate educational unit.

Accordingly, ~~appropriate broad~~ deference is given if the conduct that was the basis for the complaint occurred in an instructional context. When there is a legitimate pedagogical basis, the presentation or discussion of sexual topics that are mature, controversial, graphic, or explicit shall not be considered sexual harassment even if some persons find these topics subjectively offensive.

3. **Responsibility to Report.** All Ohio University faculty, administrators, and staff (except those identified as confidential resources, as defined in Policy 03.004) have a duty to immediately report violations of this policy to the Title IX

Coordinator if they receive a complaint of a violation or observe or learn of conduct that is reasonably believed to violate this policy.

In addition to the duty to report sexual misconduct to the Title IX Coordinator as identified in the prior paragraphs, in some circumstances there is also a duty to report allegations of criminal conduct to law enforcement. Section [2921.22](#) of the Revised Code requires every person who knows that a felony has been or is being committed, to report it to law enforcement. It is a criminal offense to knowingly fail to make the report. If any person suspects or has knowledge of criminal activity occurring on university property, they should call the Ohio University Police Department ("OUPD") at 740-593-1911 (in an emergency, dial 911 immediately). Incidents that occur off campus or at a regional campus should be reported to local law enforcement.

4. **Grievance Process.** A faculty member who has been alleged to have violated 03.004 will, with one exception, be subject to the Sexual Harassment and Other Sexual Misconduct Grievance Process (<https://www.ohio.edu/equity-civilrights/sexual-harassment-and-other-sexual-misconduct-grievance-process>). The exception applies to alleged violations of the Consensual Relationship section of Policy 03.004; alleged violations of the Consensual Relationship section will be subject to the process described in that section.

When a respondent is found in violation of ~~this p~~Policy 03.004 pursuant to the Sexual Harassment and other Sexual Misconduct Grievance Process, appropriate disciplinary sanctions will be imposed. For a faculty respondent, sanctions may include censure, reprimand, suspension without pay, demotion and/or loss of tenure, and dismissal/termination of employment. Sanctions will take into account prior disciplinary history, if any.

In conjunction with a sanction, a respondent found to be in violation of this policy may be assigned conditions of sanction, which include but are not limited to, access restriction, revocation of rights and privileges, ~~housing or worksite reassignment, educational activities,~~ etc.

~~In cases where the imposed discipline is dismissal/termination of employment, the decision of the hearing panel is final; the faculty respondent does not have the right to request a hearing under the Loss of Tenure procedure in the faculty handbook.~~ Upon conclusion of the Sexual Harassment and Other Sexual Misconduct Grievance Process, including any appeals, the Title IX Coordinator will issue a notice of final determination. Pursuant to federal law, the determination is final. The faculty respondent may not grieve the determination

pursuant to Section II.G. or any other applicable section of the Faculty Handbook. In the event the determination includes loss of tenure, dismissal, and/or termination of a tenured faculty member, the Loss of Tenure process described in Section II.D.5. of the Faculty Handbook will not apply.

Further be it resolved that Section IV.L.3.b of the Faculty Handbook regarding the University Professional Ethics Committee for cases of Sexual Misconduct shall be deleted in its entirety.