



Email: [OCR@ed.gov](mailto:OCR@ed.gov)

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## **How to Make a Report or Formal Complaint of an Alleged Title IX Violation**

Any person may report alleged sex discrimination, sexual harassment, or retaliation to the Title IX Coordinator, irrespective of whether the reporting person is the alleged victim of such conduct. A report is differentiated from a Formal Complaint (“Complaint”), which is a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment and requesting that the School investigate the allegation(s) and implement the School’s Grievance Process. A report or complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail at any time (including during non-business hours), using the contact information in the section immediately above or as described below:

- 1) To the Title IX Coordinator
- 2) Online via the reporting form available on page 24 of the link to our website:  
[http://orion.edu/files/2019/10/2019\\_Annual\\_Campus\\_Security\\_Report.pdf](http://orion.edu/files/2019/10/2019_Annual_Campus_Security_Report.pdf).
- 3) By telephone 419-874-4496.
- 4) To the Campus Director if the Title IX Coordinator is not available.

## **After Making a Report or Formal Complaint**

Upon receipt of a report or Complaint, the Title IX Coordinator shall undertake an initial assessment to determine appropriate next steps as required under this Policy, including making an initial threat assessment to ensure there is no immediate danger to Complainant or the campus community and, if there is, to take appropriate action, which may include emergency removal of Respondent as described below.

The Coordinator shall contact Complainant to discuss the availability of appropriate supportive measures that may be implemented with input from the Complainant irrespective of, and in addition to, any resolution process including the formal Grievance Process, and will notify Complainant about the right to have an advisor.

If the report has been made without filing a Complaint, the Title IX Coordinator will review the allegations and discuss options with the Complainant, including the option of proceeding with a Complaint. If the Complainant does not want to proceed with a Complaint, the Coordinator may initiate a Complaint if the Coordinator determines that a Complaint is warranted.

If the Complainant files a Complaint, or the Title IX Coordinator initiates a Complaint, the matter will proceed as described under the Grievance Process.

After submission of a Complaint and after notifying the Respondent of the Complaint’s allegations, the parties will be notified of the availability of informal resolution, as applicable. All



parties must voluntarily consent in writing to any informal resolution process. The parties may withdraw such consent at any time and resume the formal Grievance Process.

At all stages of the process, irrespective of any resolution or grievance process which may be implemented, responsive and reasonable supportive measures will be implemented to ensure continued access to the School's educational program or activities.

### **Emergency Removal of Respondent**

The School reserves the right to remove a Respondent from its education program or activities on an emergency basis when the Respondent poses an immediate threat to the health or safety of any student or campus community member. The School will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. If an emergency removal is imposed, the Respondent will be given notice of the removal and the option to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the removal should not be implemented. Emergency removal decisions are not subject to Appeal.

### **Administrative Leave of Employee Respondent**

Respondents that are School employees may be placed on administrative leave during the pendency of a grievance process as determined by the School and the Title IX Coordinator.

### **Complainant's Decision to Pursue a Complaint**

If a Complainant does not wish to be identified, does not wish for an investigation to take place, or does not want a Complaint to be pursued, the Complainant may make such a request to the Title IX Coordinator, who will evaluate the request in light of the duty to ensure campus safety and compliance with state and federal law. The School will comply with Complainant's wishes unless the Coordinator determines that initiating a Complaint is warranted under the circumstances.

If the Coordinator independently initiates a Complaint, the Complainant may have as much or as little involvement in the process as the Complainant desires. The Complainant retains all rights of a Complainant under this Policy irrespective of participation level. Irrespective of whether a Complaint is filed, the School shall offer supportive measures to ensure Complainant's continued access to the School's educational program and activities. If the Complainant elects not to file a Complaint, the Complaint shall retain the right to file a Complaint later.

### **Complaint Dismissal**

#### *Mandatory Dismissal*

The School must dismiss a Complaint if, at any time during the investigation or hearing, it is determined that:



- 1) The conduct alleged in the Complaint does not constitute sexual harassment as defined in under Title IX; and/or
- 2) The conduct did not occur in an educational program or activity controlled by the School (including buildings or property controlled by recognized student organizations); and/or
- 3) The School does not have jurisdiction over the Respondent; and/or
- 4) The conduct did not occur against a person in the United States; and/or
- 5) At the time of filing a Complaint, the Complainant is not participating in or attempting to participate in the education program or activity of the School.

### *Discretionary Dismissal*

The School may dismiss a formal complaint or any allegations therein if at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Complaint or any allegation therein; or
- 2) The Respondent is no longer enrolled in or employed by the School; or
- 3) Circumstances prevent the School from gathering evidence sufficient to reach a determination as to the Complaint or allegations therein.

Upon any dismissal, the School shall promptly send written notice of the dismissal and its rationale simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below.

Dismissed Complaints may include conduct that could be considered a potential violation of the School's Student Code of Conduct or Employee Handbook and may be addressed through other applicable, non-Title IX conduct policies and procedures accordingly.

### **Consolidated Complaints**

If a Complaint involves one or more Complaint, Complainant and/or Respondent and allegations arising out of the same set of circumstances, the School may elect to consolidate complaints.

### **Time Limits on Reporting**

There is no time limitation on making a report or Complaint. However, acting on reports or Complaints is significantly impacted by the passage of time and occurrence of other events (including, but not limited to, the rescission or any revision of this Policy), and is at the discretion of the Title IX Coordinator, who may, among other things, document allegations for future reference, offer supportive measures and/or Remedies, and/or engage in informal or formal action, as appropriate. Additionally, if the Respondent is no longer subject to the School's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide Remedies may be more limited or impossible.



## **Anonymous Report or Complaint**

If a Complainant makes a report anonymously, it will be investigated by the School to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or Remedies can be provided. Anonymous reports typically limit the School's ability to investigate and respond, depending on what information is shared. In some situations, the Title IX Coordinator may proceed with the issuance of a Formal Complaint even when the Complainant's report has been made anonymously.

## **Confidentiality**

The School shall undertake reasonable efforts to preserve the confidentiality of reports and Complaints. The School shall not disclose any report or Complaint except as provided herein and as necessary to effectuate this Policy, or as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99, or as required under applicable law.

Certain professionals have a legal and/or ethical responsibility to maintain communications made in the scope of their professional roles in strict confidence.<sup>3</sup> Some of these roles include licensed professional counselors/mental health providers, licensed medical and health care providers, victim advocates, ordained/licensed clergy, licensed attorneys and rape crisis or domestic violence resources. Complainants or Respondents wishing to speak to someone confidentially are encouraged to seek out such resources. Communications with such professionals are considered legally privileged and cannot be revealed without a party's express written consent.

## **Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the School's education program or activity, including measures designed to protect the safety of all parties or the School's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available upon receipt of a report or a complaint alleging possible sexual harassment. At the time that supportive measures are offered, the School will inform the Complainant, in writing, that they may file a formal complaint with the School either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The School shall maintain the confidentiality of the supportive measures to the greatest extent reasonably practicable, provided that confidentiality does not impair the School's ability to provide

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<sup>3</sup> In highly limited circumstances, such as when presenting an immediate threat or danger to another, or when subject to a court order, confidential communications may be revealed without the consent of a party.



supportive measures or otherwise fulfill its obligations under this Policy. The School will implement measures in a way that does not unreasonably burden the other party.

Supportive measures may include, but are not limited to, counseling referrals, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, referral to medical or healthcare services, referral to community-based services, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

### Amnesty for Complainants and Witnesses

The School encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the School community that Complainants choose to report misconduct to School officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the School may offer parties and witnesses amnesty from minor violations of other School policies – such as underage alcohol consumption or personal use of illicit drugs – that may be associated with the incident.

Amnesty is not applicable to more serious allegations, such as physical abuse of another or illicit drug distribution.

### **Right to an Advisor**

The parties have the right to select an advisor of their choice to accompany them to any or all meetings and interviews during the resolution process. There are no limits on who can serve as an advisor; it may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. Under Title IX, cross-examination is required during the hearing, and must be conducted by the parties' advisors. If a party selects an advisor of their choice, this advisor must perform cross-examination on their behalf during the hearing, as the parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an advisor, or the advisor does not appear for a hearing, the School will provide one for the limited purpose of conducting cross-examination on behalf of the party.

An advisor who is also a witness to the allegations in the complaint creates potential for bias and conflict-of-interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s) and may, but will not



necessarily, impact the Final Determination.

The School cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not select or retain an attorney or cannot afford an attorney, the School is not obligated to provide the other party with an attorney.

### **Conflict-of-Interest & Bias**

Title IX Personnel are trained to ensure they have no conflict of interest and are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. To raise any concern involving bias, conflict of interest or other misconduct by any Title IX Personnel contact either of the following to report the concern:

School Director: Kevin Burchett

Chief Operating Officer: Timothy Campagna

### **Resolution Timeline**

The School will make a good faith effort to complete the resolution process fairly and promptly. Duration of a matter that proceeds through the Formal Grievance Process is determined by many factors including, but not limited to, the cooperation and availability of the parties and witnesses, potential concurrent criminal investigations, and the School closures, among others. The School will avoid all undue delays within its control and will grant reasonable extensions of time, upon written request and showing of good cause, by a party. The School shall provide the parties written notice of delays and/or extensions, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

### **Notifications to Parties**

All notifications to the parties noted herein will be made by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official School records, or emailed to the parties' School-issued email or otherwise approved account. Once mailed, e-mailed and/or received in-person, notice will be presumptively delivered

### **Clery Act Reporting**

Reports or complaints of sexual assault, domestic violence, dating violence, and/or stalking that pose a serious or continuing threat of bodily harm or danger to members of the campus community may trigger a timely warning obligation by the School under the Clery Act. If a warning is deemed necessary, the School will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.