

# Sexual Misconduct Policy (Title IX)

## Policy Statement

Cincinnati State Technical & Community College (“the College”) is committed to fostering an environment that is free from all forms of sexual misconduct, including sexual assault and sexual harassment. In support of that commitment, the College takes steps to increase awareness of such misconduct, eliminate its occurrence on campus, provide support for survivors, diligently investigate all reports of sexual misconduct, and deal fairly and firmly with offenders.

The College complies with all state and federal discrimination laws, including Title IX of the Higher Education Amendments of 1972, the federal law that prohibits discrimination on the basis of sex in education programs and activities. The College’s Sexual Misconduct/ Title IX policy (“Policy”) is intended to ensure a safe and non-discriminatory educational and work environment.

**If you are in immediate danger, please call 911 or, if you are on campus, the Cincinnati State Police at 513-569-1558.**

## Who is subject to this Policy?

The Policy applies to all community members, including students, faculty, staff, affiliates, visitors, applicants for admission or employment, and independent contractors. Vendors and others who conduct business with the College or on College property are also expected to comply with this Policy. The Policy applies regardless of a person’s gender, gender identity, gender expression, sexual orientation, age, race, nationality, class status, religion, or other protected status.

This Policy applies both to on-campus and off-campus conduct if (i) the conduct was in connection with a College or College-recognized program or activity, or (ii) the conduct may have the effect of creating a hostile environment for a member of the College community.

Employees are also subject to the College Operations Policy 2.2. Consensual Sexual Relationship Misconduct. Students are also subject to the College Student Code of Conduct.

## Definitions, Generally

**Complainant** – The person making the allegations of sexual misconduct.

**Respondent** – The person against whom a complaint of sexual misconduct has been made.

**Reporter** – A person who has information that sexual misconduct may have been committed by a College student or a participant in a College program and who initiates a complaint.

## Definitions of Offenses and Prohibited Conduct

- **Sexual harassment** – Unwelcome sexual conduct of various types. Sexual harassment is a form of sex discrimination. It occurs in a variety of situations which share a common element: the inappropriate introduction of sexual activities or comments into the work or learning situation, the creation of relationships of unequal

power and/or elements of coercion, such as requests for sexual favors as a criterion for granting work, study, or grading benefits. Sexual harassment may also involve relationships among peers of repeated sexual advances or demeaning verbal behavior resulting in a harmful effect on a person’s ability to study or work in the academic setting. In addition, third parties may submit claims if a sexual relationship unfairly confers preferential treatment to participant(s) in the relationship.

- **Sexual Violence** – Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (i.e., due to person’s age, use of drugs or alcohol, or because intellectual or other disability prevents the person from having the capacity to give consent). Different acts fall in this category including rape, sexual assault, sexual abuse, and sexual coercion.
- **Sexual Assault** – An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI Uniform Crime Reporting (UCR) program.
- **Sexual Misconduct** – Both non-consensual sexual contact and/or intercourse where the victim is not mentally or physically able to give effective, **informed consent**.
- **Domestic and Dating Violence** – Sexual violence that is physical and/or mental in form that occurs within a social relationship between two people, whether married or not.
- **Bullying and Cyber-harassment** – Any written, verbal, physical, or electronically-distributed act that one individual exhibits toward another where the behavior causes mental and/or physical harm; the behavior is such that it creates a severe, pervasive, persistent threatening educational or work environment.
- **Stalking and Cyberstalking** – A pattern of electronically-distributed information that knowingly causes another person(s) to believe the offender will cause physical harm and/or mental distress to the other person(s). Depending on the circumstance, such acts may be criminal in nature.
- **Consent** – clear, knowing, and voluntary. Consent is active, not passive, and it can be withdrawn at any time. Silence in and of itself cannot be interpreted as consent. Consent can be given by words or action as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.
- **Force** – The use of force to cause someone to engage in sexual activity is, by definition, non-consensual contact, and is prohibited. Force may include words, conduct, or appearance. Force includes causing another’s intoxication or impairment through the use of drugs or alcohol.
- **Incapacitation** – Incapacitation is the inability, temporarily or permanently, to give consent, because the person is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, or the person is unconscious, asleep, or otherwise unaware that the sexual activity is occurring.
- **Hostile Environment** – A hostile environment exists when sexual or sex-based harassment is sufficiently serious to deny or limit a student’s ability to participate in or benefit from the College’s programs or activities or has the effect unreasonably interfering an employee’s work performance or altering the terms and conditions of the employee’s employment. A hostile environment can be created by anyone involved in a College program or activity (e.g., administrators, faculty members, students, and campus visitors).

In determining whether sex-based harassment has created a hostile environment, the College considers the conduct in question from

both a subjective and objective perspective. It will be necessary, but not enough, that the conduct was unwelcome to the student who was harassed. The College will also need to find that a reasonable person in the student's position would have perceived the conduct as undesirable or offensive in order for that conduct to create or contribute to a hostile environment.

To determine whether a hostile environment exists for a student or employee, the College will consider a variety of factors related to the severity, persistence, or pervasiveness of the sex-based harassment, including: (1) the type, frequency, and duration of the conduct; (2) the identity and relationships of persons involved; (3) the number of individuals involved; (4) the location of the conduct and the context in which it occurred; and, (5) the degree to which the conduct affected the student's education or the employee's employment.

The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

## Reporting Sexual Misconduct

The College encourages all survivors to report incidents of sexual misconduct as promptly as possible so that the College can respond effectively. Students may report sexual misconduct to the Title IX Coordinator, the College's Police Department, or any College administrator, dean, or faculty member. In general, when one of these offices receives a report, the College must commence an investigation. All reports of such incidents will be disclosed to the Title IX Coordinator.

However, the College recognizes that student complainants may be most comfortable disclosing sexual misconduct to a College employee they know well, such as a faculty member, coach, or advisor. Students are welcome to speak with them, but should understand that these individuals and many other faculty and staff members are considered "responsible employees" of the College. If they receive a report of sexual misconduct, they are required to inform the Title IX Coordinator about the incident.

The College defines a "responsible employee" to include supervisors and officials with significant responsibility for student and campus activities including, but not limited to, academics, athletics, discipline, and campus safety. Employees whose positions legally require confidentiality (e.g., Counseling Center staff) are not "responsible employees."

Before a student discloses an incident of sexual misconduct, College faculty and staff will try to ensure that the student understands the employee's reporting obligations – and, if the student wishes to maintain confidentiality, direct the student to confidential resources. Similarly, before a faculty or staff member discloses an incident of sexual misconduct, the person to whom the disclosure is to be made will endeavor to ensure that the faculty or staff member understands his or her reporting obligations. **If you are unsure of someone's duties and ability to maintain your privacy, ask them before you talk to them.**

A person who experiences sexual misconduct has the option to report anonymously through the online **Maxient** report form; however, the College's investigation and response to anonymous complaints likely

will be limited. If the anonymous report includes a crime, it will be counted in the College's crime statistics.

## Reporting Procedure

Any student or employee who believes that he or she has been the subject of sexual violence, sexual assault, dating/domestic violence, stalking, discrimination, or sexual harassment should report the incident or incidents to the Director of Human Resources, who also serves as the College's Title IX Administrator. If the complaint is against that official, the Complainant should report the matter to the Provost's office for referral to an alternate designee. The College encourages the timely reporting of any incident(s) of discrimination or sexual harassment.

- **Call:** 513-569-1565 and request the Director of Human Resources
- **Or Email:** [hr@cincinnati.edu](mailto:hr@cincinnati.edu) and indicate to the attention of the Director of Human Resources
- **Or file a Maxient incident report:** access the **Maxient** reporting system at <https://publicdocs.maxient.com/incidentreport.php?CincinnatiState>.

Individuals who believe they have experienced sexual harassment or assault are encouraged to seek medical treatment in order to preserve evidence and receive treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services. Prompt medical attention will also increase the possibility that evidence can be preserved and collected in a manner that will assist in the prosecution of a criminal case or used to support the issuance of a protective order.

The College strictly prohibits retaliation against and intimidation of any person because he or she reported of an incident of sexual misconduct or is involved in the College's response. The College will take strong disciplinary action in response to any retaliation or intimidation, and will pursue such discipline through the applicable student conduct policy or other disciplinary process and follow the applicable time frames within such policies or processes.

## Investigation

The College will endeavor to resolve all Title IX complaints or reports promptly. The investigation and resolution (including appeal) of all complaints or reports will generally be completed within 60 days. Extenuating circumstances, including the complexity and severity of a complaint, may exist that require the complaint process to extend beyond 60 calendar days. If the investigation and resolution exceed this time frame, the College will notify all parties of the need for additional time and best efforts will be made to complete the process in a timely manner.

Any faculty member or employee accused of sexual harassment or sexual misconduct is entitled to any due process which may be provided by other College policies or handbooks or applicable contracts or law. Any student accused of sexual harassment or sexual misconduct is entitled to due process in accordance with the College's Student Code of Conduct or other applicable policies or handbooks. (A student who is also a student worker will be subject to the procedures applicable to students and not to any procedures applicable to College employees.)

Once a complaint of sexual harassment or sexual misconduct has been made, the individual taking the complaint must gather important and relevant facts from the Complainant. If the Cincinnati State Title IX Coordinator is not the recipient of the complaint, the individual

taking the complaint will generally contact the Cincinnati State Title IX Coordinator for guidance and assistance. In any event, the Cincinnati State Title IX Coordinator must be notified of the complaint within 24 hours or as soon as possible after the complaint is made.

The Cincinnati State Title IX Coordinator is responsible for conducting or overseeing a timely and thorough investigation of a complaint of sexual harassment or sexual misconduct. One or more other College employees or outside parties may be assigned to assist with and/or conduct the investigation.

The investigation must include a meeting with the Complainant, and discussions with any witnesses to the incident. The investigator will also meet with the Respondent to discuss the incident and provide him/her with an opportunity to respond. No questioning regarding the Complainant's prior sexual conduct with anyone other than the Respondent will be allowed. The Title IX Coordinator may include a second investigator in the separate meetings with the Complainant and Respondent.

A Respondent who is a third party to the College may not be entitled to a hearing; therefore, a decision of whether the College will continue its relationship with the third party will be made based on the initial evaluation of the allegation or formal investigation as appropriate.

To determine whether a particular act or course of conduct constitutes sexual harassment under this policy, the alleged behavior will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of harassment, a serious incident, even if isolated, may be sufficient.

The proper exercise of academic freedom by a faculty member is not restricted by the College's prohibition against harassment. However, conduct that would otherwise constitute a violation of this policy will not be exempt from review, discipline, or other action merely because it occurs in a classroom or other academic setting.

The investigator will prepare a written report and complete record of all relevant issues, findings, and evidence. If the investigator is someone other than the Cincinnati State Title IX Coordinator, this report and record shall be forwarded to the Cincinnati State Title IX Coordinator.

At the conclusion of the investigation, and where applicable, upon receipt of the written report and record from another investigator, the Cincinnati State Title IX Coordinator will determine whether there is sufficient evidence to conclude that sexual harassment or sexual misconduct occurred. In order for the investigator to determine that sexual harassment or sexual misconduct occurred, the determination must be supported by a **preponderance of the evidence**. **A preponderance of the evidence means that it is more likely than not to have occurred.** The Cincinnati State Title IX Coordinator will prepare a written report of the determination.

## Determination and Sanctions

When sexual harassment or sexual misconduct is determined to have occurred, steps will be taken to ensure that the behavior is stopped promptly, the effects, if any, are remedied, and that reoccurrence is prevented, whenever possible. Appropriate corrective action for the Respondent includes, but is not limited to, a requirement that he or she obtain counseling or complete other restorative activities or written reprimand, suspension, or other disciplinary action up to

and including termination or expulsion. Corrective action against the Respondent will be carried out in accordance with applicable College policies, handbooks, code of conduct, or contract. A Complainant will be informed of the corrective action and/or discipline taken against the Respondent.

A Complainant may have rights under other College policies or handbooks to participate in a disciplinary hearing and/or appeal involving a respondent who has been determined to have engaged in sexual harassment or sexual misconduct. The Cincinnati State Title IX Coordinator will inform the Complainant of any such rights.

## Appeals

The Complainant or Respondent may request an appeal within ten (10) calendar days of the notification of the outcome of the conduct process by writing to the Title IX Coordinator. The written appeal request must clearly state the grounds for the appeal. Allowable grounds for appeal are (1) new and compelling evidence that was not available at the time of the investigation and any following proceeding or (2) a procedural error that substantially impacted the findings. Disagreement with the results is not sufficient grounds for an appeal. The Title IX Coordinator will refer the appeal to the Provost for review.

The Provost will review the investigation report and accompanying evidence to determine whether the evidence supports the results and whether College procedure was followed. The Provost will give his/her decision within ten (10) calendar days. The Provost's decision on the appeal is final and binding.

If the Provost has a conflict of interest in the matter, he or she may designate another Vice President to conduct the review.