

2020-2021 Interim Anti-Sexual Harassment, Discrimination, and Sexual Misconduct Policy

THE COLLEGE OF WOOSTER

INTRODUCTION

The College of Wooster (“Wooster” or the “College”) has developed a comprehensive anti-sexual harassment, discrimination, and sexual misconduct policy (the “policy”) in compliance with federal laws applicable to all members of the campus community including students, faculty, administrators, staff, and visitors.

The policy prohibits all forms of illegal sex- and gender-based discrimination, sex/gender-based harassment, sexual/gender violence, sexual exploitation, domestic violence, dating violence, and stalking which are collectively referred to herein as prohibited conduct. Prohibited conduct encompasses any unwelcome behavior of a sexual or gender-based nature that is committed without consent or by force, intimidation, coercion, or manipulation. Prohibited conduct can be committed by a person of any gender, and it can occur between people of the same or different genders. Prohibited conduct may vary in its severity and consists of a range of behavior or attempted behavior. It can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship.

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of harassment, violence, and discrimination. The College of Wooster’s policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom.

The policy has been designed to serve the following purposes:

- Establish conduct standards and expectations for behavior for the campus community. In addition to compliance with applicable federal laws, this policy has been designed to reflect and maintain institutional values and community expectations which also include compliance with local ordinances and state law. A violation of College policy may also constitute a crime. Under the Ohio Revised Code (ORC), The College of Wooster is obligated to report to the Wooster Police Department when a felony may have been committed.
- Equity and clarity for process and procedure. The policy outlines reporting, investigation, and resolution of complaints in cases where there is reported prohibited conduct. The policy ensures that all parties involved are treated fairly, equitably, and respectfully through the process.
- Thorough descriptions of resources within the campus and the external community. The College of Wooster is committed to supporting any person who is impacted by violations of this policy. That includes assisting in the management of the impact that prohibited conduct may have on a person and/or other members of the campus community.

All members of The College of Wooster community have the right to:

- Make a report to local law enforcement and/or state police and be assisted by campus authorities if reporting a crime to law enforcement.
- Have disclosures of illegal discrimination and harassment, domestic violence, dating violence, stalking, and sexual misconduct treated seriously.

- Make a decision about whether or not to disclose a crime or violation and/or to participate in the College's resolution process and/or criminal justice process.
- Participate in a process that is fair and impartial and that ensures a meaningful opportunity to be heard.
- Be treated with dignity and respect and to have access to health care and counseling services as needed.
- Change academic, living, transportation, or working situations to avoid a hostile environment.
- Obtain or enforce a no contact order (issued by the College) and/or seek a restraining order (issued by the local court system).
- Have a clear description of the College's disciplinary process and know the range of possible sanctions for violating this policy.
- Receive contact information about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available both on campus and in the local community.
- Be afforded the presumption that they have not violated this policy until a determination regarding responsibility is made at the conclusion of the grievance process

NOTICE OF NON-DISCRIMINATION

The College of Wooster adheres to all federal, state and local civil rights laws banning discrimination in private institutions of higher education. The College of Wooster will not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of race, color, sex/gender, gender identity, gender expression, pregnancy, political affiliation, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability of a qualified individual, age, marital status, family responsibilities, sexual orientation, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any complaint process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that mandates: No person in the United States shall, on the basis of sex, 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.

Prohibited conduct under this policy is also prohibited under the Clery Act as amended by the Violence Against Women Act (VAWA), Title VII of the Civil Rights Act of 1964, Ohio Revised Code Chapter 4112, and other applicable statutes, regulations, and administrative code provisions.

SCOPE OF POLICY

This policy applies to all reports of sex-based and gender discrimination, sexual harassment, and sexual misconduct occurring on or after the effective date of this policy.

When used in this policy, "complainant" refers to individual who is alleged to be the victim of conduct that could constitute prohibited conduct under this policy. "Respondent" refers to an individual who has been reported to be the perpetrator of conduct that could constitute prohibited conduct under this policy. This policy applies in any instance in which a member of the Wooster community is alleged to have engaged in illegal discrimination or harassment, or to have committed sexual misconduct against another person, including visitors to the campus. The College of Wooster will not tolerate illegal discrimination, harassment or sexual misconduct against any employee, student, visitor, or guest. This policy will be enforced regardless of the complainant's or respondent's sex, gender, sexual orientation, or gender identity or expression.

The College is required by Title IX to distinguish prohibited conduct depending on whether that conduct meets certain definitions and where the conduct occurs (also known as "jurisdiction"). Even though the College is required to make these distinctions, the College is committed to addressing prohibited conduct whether it occurs on-campus or off-campus. Reporting prohibited conduct is encouraged regardless of when or where the experience may have occurred, including

semester breaks, leaves of absences, or periods of dismissal. The policy discusses the distinction of prohibited conduct based on jurisdiction in this section. The policy discusses the distinction of conduct based on definitions in the section "Prohibited Conduct" below. The College's resolution process will be used as long as the respondent is under "control" at the College. ("Control" by the College refers to any employee and/or a student at the College.)

The College will take action to provide resources for the safety and well-being of the complainant and the campus community if the prohibited conduct occurred in a situation where the respondent is not under control by the College, and the College's resolution process is not applicable.

Descriptions of applicable locations:

- On-campus Programs: This policy applies if illegal discrimination or harassment, including, but not limited to prohibited conduct has been alleged to occur on property owned or controlled by the College.
- Off-campus College Programs: This policy applies if illegal discrimination or harassment, including, but not limited to prohibited conduct has been alleged to occur in the context of College employment or educational programs or activities, such as but not limited to Wooster study abroad programs, Wooster internship programs, trips/retreats organized by Wooster, etc.
- Off-campus: This policy applies if illegal discrimination or harassment, including, but not limited to prohibited conduct has been alleged to have occurred on a property not controlled by the College if there are adverse, on-going effects that create a hostile environment for any member of the Wooster community at or on College of Wooster property.

Title IX Jurisdiction

The College must distinguish Title IX conduct from other forms of sexual misconduct. The College has Title IX jurisdiction to address conduct that constitutes Title IX Misconduct under this policy and occurs within the following parameters:

1. The individual experiencing the conduct is located in the United States when the conduct occurs;
2. The conduct occurs in/at a location, event, or circumstance over which Wooster exercises substantial control over both the respondent and the context of that location, event, or circumstance. Conduct that occurs in buildings that are owned or controlled by student organizations officially recognized by the College is deemed to meet this element of substantial control.

Title IX Jurisdiction applies to the following types of Prohibited Conduct:

- Title IX Quid Pro Quo Sexual Harassment
- Title IX Hostile Environment Sexual Harassment
- Title IX Sexual Assault
- Title IX Dating Violence
- Title IX Domestic Violence
- Title IX Stalking

Sexual Misconduct Jurisdiction

The College prohibits sexual misconduct in broader contexts than the Title IX law and regulations. Conduct defined as subcategories of "Sexual Misconduct" under the "Prohibited Conduct" section below is prohibited and the policy will apply in the following contexts:

- On-campus Programs: This policy applies if illegal discrimination or harassment, including, but not limited to prohibited conduct has been alleged to occur on property owned or controlled by the College.

- Off-campus College Programs: This policy applies if illegal discrimination or harassment, including, but not limited to prohibited conduct has been alleged to occur in the context of College employment or educational programs or activities, such as but not limited to Wooster study abroad programs, Wooster internship programs, trips/retreats organized by Wooster, etc.
- Off-campus: This policy applies if illegal discrimination or harassment, including, but not limited to prohibited conduct has been alleged to have occurred on a property not controlled by the College if there are adverse, on-going effects that create a hostile environment for any member of the Wooster community at or on College of Wooster property.

Sexual Misconduct Jurisdiction applies to the following types of Prohibited Conduct:

- Sexual Misconduct: Sexual Harassment
- Sexual Misconduct: Non-Consensual Sexual Intercourse
- Sexual Misconduct: Non-Consensual Sexual Contact
- Sexual Misconduct: Sexual Exploitation
- Sexual Misconduct: Stalking
- Sexual Misconduct: Intimate Partner Violence
- Sexual Misconduct: Indecent Exposure

Procedures for Incidents Involving Individuals Who are Not Current Members of the Campus Community: In complaints of alleged violations of the Anti-Sexual Harassment, Discrimination, and Misconduct Policy by persons who are not currently members of the campus community, a report can be filed with the Office of the Dean of Students, the Title IX Coordinator, Security and Protective Services, and/or the Director of Alumni Relations, if the matter involves an alumnus. The Title IX Coordinator and a designee from Alumni Relations will meet to determine if the alleged violations affect a substantial College interest. The violation affects a substantial College interest if: it occurred on College property, it occurred on non-College property during an event associated with the College, or has significant impact or disruption on a current member of the College community. The designees will meet and determine an appropriate response, including, but not limited to:

- Citation or written warning
- Restitution: in complaints involving vandalism or property damage
- Exclusion from College property and/or events associated with the College
- Referral to appropriate law enforcement agency(ies)

Procedures for Incidents Involving Admitted Students: In some cases, the College may choose to investigate an allegation of policy violation(s) depending on the nature of the report. The College reserves the right to rescind admission without an investigation prior to the first day of classes.

Procedures for Incidents Involving a Member of the Board of Trustees: Complaints against a member of the Board of Trustees should be directed to the Chair of the Board of Trustees and will be handled through the Board of Trustees' Code of Conduct, in consultation with the Title IX Coordinator, if applicable.

Procedures for Incidents Involving the Title IX Coordinator: Complaints against the Title IX Coordinator should be directed to the President of the College. In the event of a complaint against the Title IX Coordinator or someone to whom they report, alternative arrangements will be made to ensure an impartial investigation and adjudication. The alternative arrangements will be provided in writing to all parties.

TITLE IX DISMISSAL

The College is required by the Title IX Regulations to dismiss a formal complaint for certain conduct when the conduct does not meet the definitions of Title IX Misconduct, as defined in the Prohibited Conduct section below, or occurs in contexts outside of the College's Title IX Jurisdiction. The College calls this process Title IX Dismissal. The College has created the definitions and procedures in this policy to investigate and adjudicate all prohibited conduct in this policy, even if the College must issue a Title IX Dismissal. Regardless of whether conduct is dismissed from the Title IX Misconduct definitions or Jurisdiction, the College will utilize the same procedure and afford all parties the same rights as if dismissal had not occurred.

A formal complaint must go through Title IX Dismissal if the conduct, if proven, could not meet the definition of any conduct under the category Title IX Misconduct in the Prohibited Conduct section of this policy, or if the conduct occurs outside the College's Title IX Jurisdiction defined above. Title IX Dismissal will occur through a written letter or email from the Title IX Coordinator that discusses: the reason for Title IX Dismissal, how the College will continue to investigate and adjudicate prohibited conduct, and the rights of the parties to appeal the Title IX Dismissal. Parties will have 5 business days to submit a written appeal of the Title IX Dismissal to the Title IX Coordinator. The appeal will then be assigned to an appeal officer who will review the party's appeal and the Title IX Coordinator's reason for the Title IX Dismissal. The appeal officer will then issue a decision on the appeal to both parties and the Title IX Coordinator. If the Title IX Dismissal is upheld, the process under this policy will proceed for any additional charges in the notice that constitute Prohibited Conduct. If the Title IX Dismissal is overturned, the Title IX Coordinator will reinstate that charge of Title IX Misconduct and the process under this policy will adjudicate all charges located in the official notices to the parties.

If conduct does not meet the definitions or jurisdiction of any Prohibited Conduct under this policy, the Title IX Coordinator will refer such conduct to the appropriate office for resolution under a different policy. Referrals may be made to the Dean of Students Office, Human Resources, the Provost's Office, or other office with a relevant code of conduct.

PROHIBITED CONDUCT

The College prohibits all forms of sex and gender-based discrimination, harassment, sexual/gender-based violence, sexual exploitation, stalking, hazing, intimate partner violence (including domestic violence and dating violence), bullying/cyberbullying, and the use of physical harm/intimidation.

Discrimination

This policy prohibits discrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive, or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the campus community, guest, or visitor on the basis of their actual or perceived membership in any of the protected classes listed above is in violation of the College policy on nondiscrimination. When brought to the attention of the College, any such discrimination will be appropriately addressed and remedied by the College according to the process described below. Non-members of the campus community who engage in discriminatory actions within College programs or on College property are not under the jurisdiction of this policy, but can be subject to actions that limit their access and/or involvement with College programs as the result of their misconduct. Separation by sex and/or gender identity is allowed in certain circumstances, including, but not limited to: housing, locker rooms, bathrooms, choirs or choruses, and fraternities and sororities.

Harassment based upon Sex and/or Gender

Harassment constitutes a form of discrimination that is prohibited by College policy as well as the law. The College of Wooster condemns and will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of any status protected by policy or law. The College will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, the College may also impose sanctions on the harasser through application of the process described

below. The College's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe, persistent and objectively offensive such that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities.

The College reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may or may not result in the imposition of discipline under College policy, but may still be addressed through supervisory conversations, remedial actions, education, and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Director of Human Resources and students should contact the Director of Student Rights and Responsibilities.

Title IX Misconduct

"Sexual harassment" within the scope of Title IX means conduct on the basis of sex that satisfies the definition of one or more of the following: *quid pro quo* by an employee to a student; hostile environment sexual harassment, dating violence, domestic violence, stalking, or sexual assault (as defined in 20 USC 1092(f)(6)(A)(v)).

- **Title IX *Quid Pro Quo* (employee-to-student only)**

Title IX *Quid pro quo* sexual harassment occurs when an employee of Wooster conditions the provision of aid, benefit, or service from Wooster on a student's participation in unwelcome sexual conduct;

- **Title IX Hostile Environment Sexual Harassment**

Conduct on the basis of sex that is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Wooster's educational program or activity.

- **Title IX Sexual Assault**

Title IX Sexual assault is a forcible or non-forcible sex offense as classified under the Uniform Crime Reporting system of the FBI,¹ to include:

- *Penetrative Sexual Assault*– penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. Attempts or assaults to commit rape are also included within this definition.
- *Fondling* – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- *Incest* – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.²

¹ The definitions used here are taken from the FBI UCR National Incident-Based Reporting System User Manual 2019.2 (Last visited June 6, 2020)

² Ohio Revised Code Section 2907.03(A)(5) prohibits sex between a parent/guardian and child, even if the child is not a minor. There is no similar prohibition for siblings or other family members where the situation involves consenting adults.

- *Statutory Rape* – Sexual intercourse with a person who is under the statutory age of consent. In Ohio, no person may have sex with a child under the age of thirteen,³ nor may a person over the age of eighteen have sex with a child under the age of sixteen.⁴

- **Title IX Dating Violence**

Title IX Dating Violence means an act of violence committed by a person who is or has been in a romantic or intimate relationship with the complainant. The existence of such a romantic or intimate relationship is determined by the length of the relationship, the type of relationship, and the frequency of interactions between the individuals involved in the relationship.

Acts of violence may include, but is no limited to:

- Recklessly causing bodily injury;
- Attempts to cause bodily injury; and
- Causing fear of immediate, physical harm through threat of force.

- **Title IX Domestic Violence**

The term Title IX Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Acts of violence may include, but are not limited to:

- Recklessly causing bodily injury;
- Attempts to cause bodily injury; and
- Causing fear of immediate, physical harm through threat of force.

- **Title IX Stalking**

Title IX Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person with similar characteristics under similar circumstances to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

A course of conduct includes two or more acts, including but not limited to, those in which the alleged perpetrator directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the complainant, or interferes with the complainant's property.

The course of conduct must be committed on the basis of the victim's sex. Stalking that is not on the basis of sex or gender will be resolved through procedures discussed in the Scot's Key (for students), Faculty Statute (for faculty), or Employee Handbook (for non-faculty employees).

Sexual Misconduct

As discussed in the "Scope of Policy" section, the College must distinguish certain types of conduct based on where it occurs or if it does not meet certain definitions as required by Title IX law and regulations. The College is committed to addressing all Sexual Misconduct and the prohibited conduct under this section is addressed by the policy over a larger

³ Ohio Revised Code Section 2907.02(A)(1)(b).

⁴ Ohio Revised Code Section 2907.04(A).

jurisdiction than that of Title IX Misconduct. The adjudicatory procedures for all prohibited conduct, whether Title IX or Sexual Misconduct, are identical to ensure a fair process to all parties involved. The following are definitions for types of Sexual Misconduct:

- **Sexual Misconduct: Sexual Harassment**

Sexual harassment is any unwelcome conduct on the basis of sex when one or more of the following conditions are present:

- Submission to or rejection of such conduct is an explicit or implicit condition of an individual's employment, evaluation of academic work, or any aspect of a College program or activity; or
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or,
- Such conduct would be determined by a reasonable person to be so severe, pervasive, or objectively offensive that it creates a hostile environment. A hostile environment only exists if it unreasonably interferes with or denies a person equal access to Wooster's educational program or activity. Bullying or cyberbullying on the basis of sex, gender, sexual orientation, or gender identity may meet this definition.

A single experience of sexual harassment alone may create a hostile environment if the experience is sufficiently severe. The more severe the conduct, the less need there is to show a pattern of experiences to create a hostile environment. The determination of whether an environment is "hostile" will be based on the totality of the circumstances, including, but not limited to:

- The frequency of the speech or conduct;
- The nature and severity of the speech or conduct;
- Whether the speech or conduct was physically threatening;
- Whether the speech or conduct was demeaning;
- The effect of the speech or conduct on the complainant's mental and/or emotional state;
- Whether the speech or conduct was directed at more than one person;
- Whether the speech or conduct arose in the context of other discriminatory conduct.

- **Sexual Misconduct: Non-Consensual Sexual Intercourse**

Defined as:

- any sexual penetration or intercourse (anal, oral, or vaginal);
- however slight;
- with any object;
- by a person upon another person;
- that is without consent and/or by force.

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth-to-genital contact or genital-to-mouth contact.

The Ohio Revised Code (ORC) defines sexual conduct as, "vaginal intercourse between a male and a female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another." This definition is applicable to criminal prosecutions for sexual conduct (including rape, sexual battery, and unlawful sexual conduct with a minor) in Ohio, but may differ from the definition used by The College of Wooster to address policy violations.

- **Sexual Misconduct: Non-Consensual Sexual Contact**

Defined as:

- any intentional sexual touching;
- however slight;
- with any object;
- by a person upon another person;
- that is without consent and/or by force.

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

- **Sexual Misconduct: Sexual Exploitation**

Sexual exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another person or persons. Examples of sexual exploitation include, but are not limited to:

- Taking advantage of another's sexuality; threatening to disclose an individual's sexual orientation or gender;
- Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give or deny consent to sexual activity;
- Extending the bounds of consensual sexual contact without the knowledge of the other individual, e.g. knowingly failing to use contraception without the other party's knowledge;
- Sexual voyeurism (such as watching a person undressing, using the bathroom, or engaging in sexual acts without the consent of the person observed);
- Taking pictures of or video or audio recording another in a sexual act, or in any other private activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (including, but not limited to, allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures or video without the consent of all involved individuals);
- Prostitution: defined as the exchange of sexual acts for money, drugs, or other compensation or the facilitation of prostitution of another individual;
- Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted infection (STI) and without informing the other person of the infection;
- Encouraging or permitting another person to engage in non-consensual sexual activity.
- Knowingly or recklessly causing another person to be in contact with bodily fluids without their consent.

- **Sexual Misconduct: Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person with similar characteristics under similar circumstances to:

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

A course of conduct includes two or more acts, including but not limited to, those in which the alleged perpetrator directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the complainant, or interferes with the complainant's property.

The course of conduct must be committed on the basis of the complainant's sex. Stalking that is not on the basis of sex or gender will be resolved through procedures discussed in the Scot's Key (for students), Faculty Statute (for faculty), or Employee Handbook (for non-faculty employees).

- **Sexual Misconduct: Intimate Partner Violence**

Intimate partner violence is any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, or domestic relationship, or other intimate encounters. Intimate partner violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and all racial, social, and economic backgrounds. Dating violence and domestic violence are both forms of intimate partner violence.

- **Sexual Misconduct: Indecent Exposure**

A person commits indecent exposure if that person exposes their genitals in a sexually explicit manner in any public place or in any place where there are other persons present under circumstances in which one knows or reasonably should know that this conduct is likely to offend or alarm others.

CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student or supervisor and employee). Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party create real or perceived impropriety and may be unethical. These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy, as consent within any sexual or intimate relationship may be withdrawn at any time. For these reasons, dating, romantic, or sexual relationships between students and faculty or students and coaches, including relationships that occur when the College is not in session or students are on leave, are prohibited. Faculty and coaches who violate this prohibition are subject to appropriate College adjudication processes and disciplinary action.

For the personal protection of members of the community, relationships in which power differentials are inherent (department chair-faculty, faculty-staff, staff-staff, staff-student, Resident Assistant, and students over whom they have direct responsibility) are generally discouraged. However, if a relationship does exist, individuals with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor. It will likely be necessary to remove the employee from the supervisory or evaluative responsibilities or to shift a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. While only faculty-student and coach-student relationships are prohibited by this policy, failure to self-report all other such relationships to a supervisor as required can result in disciplinary action for an employee.

RELATED CONCEPTS AND DEFINITIONS

Consent

Individuals who choose to engage in sexual activity of any type with another person must first obtain clear consent from that person. Consent is clear, knowing, and voluntary permission. It can only be given by someone who is of legal age and has the capacity to consent.

Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. Consent is

active, not passive. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

The following are essential elements of Consent:

- Informed and reciprocal: All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.
- Freely and actively given: consent cannot be obtained through the use of force, coercion, threats, intimidation, pressuring, or by taking advantage of the incapacitation of another individual. Coercion, force, or threat of either invalidates consent.

Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity. Each participant in a sexual encounter is expected to obtain and give consent to each act of sexual activity in order for the activity to be considered consensual. A current or previous dating relationship is not sufficient to constitute consent.

Consent is not indefinite. Consent may be given initially, but it may be withdrawn by any party at any time. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. An individual who seeks to withdraw consent must communicate, through clear words or actions, a decision to cease the sexual activity. Once consent is withdrawn or can no longer be given, the sexual activity must cease immediately and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.

Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. While consent can be given by words or actions, non-verbal consent is more ambiguous than explicitly stating one's wants and limitations. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity should not be assumed to be consenting to sexual activity.

- When consent is requested verbally, absence of any explicit verbal response, or presence of a clear non-verbal response, constitutes lack of consent. A verbal "no" constitutes lack of consent, even if it sounds insincere or indecisive. Under this policy, "no" always means "no." "Yes" only means "yes" when it is clear, voluntary, and knowingly given by an individual who has the capacity to give consent.
- If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of the other individual(s) to proceed, all parties should stop and clarify, verbally, the other's willingness to continue before proceeding with such activity.

Coercion

The act of knowingly or willingly using unreasonable and persistent pressure to compel a person to initiate or continue sexual activity against their will is coercion. Coercion is generally non-physical and can include a wide range of behaviors, including threat of physical harm to the individual, the individual's friends or family, significant threat to the individual's property, abuse of power relationships, intimidation, manipulation, threats, and blackmail. Coercion may also include words or actions that threaten or endanger another individual's health or safety or cause an articulable fear of harm. Coercion may be emotional, intellectual, psychological, or moral.

Force

Force is the use or threat of physical violence or intimidation to overcome an individual's freedom to choose whether or not they will participate in sexual activity.

Incapacitation

A person that lacks the ability to make informed, rational judgements and cannot consent to sexual activity is incapacitated. Incapacity can occur for many reasons, including when an individual is asleep or unconscious. Where alcohol and drugs are involved, incapacitation is beyond a state of intoxication. If the person cannot understand the “who, what, when, where, why, or how” of sexual interaction, they are incapacitated. An individual who engages in sexual activity when the individual knows, or should have known, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the other party.

TITLE IX COORDINATOR

The Title IX Coordinator will be informed of all non-confidential reports of prohibited conduct under this policy, and will oversee the College’s centralized review, investigation, and resolution of those reports to ensure the College’s compliance with Title IX and the effective implementation of this policy. All references to actions by the Title IX Coordinator may be performed by the Title IX Coordinator or other designees.

The Title IX Coordinator is:

- Knowledgeable and trained in College policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a complainant or a respondent, about the courses of action, formal or informal, available at the College and in the community;
- Available to provide assistance to any College employee regarding how to respond appropriately to a report of prohibited conduct;
- Responsible for monitoring full compliance with all procedural requirements, record keeping, and timeframes outlined in this policy;
- Responsible for overseeing training, prevention, and education efforts and annual reviews of climate and culture; and,
- Responsible for facilitating periodic review of this policy as needed to maintain compliance with state and federal law.
- Free from conflicts of interest or bias from complainants and respondents generally, and from individual complainants and respondents that the Title IX Coordinator oversees cases for. The Title IX Coordinator may designate another official to serve in their capacity if the Title IX Coordinator has a conflict of interest or bias in a particular case.

The Title IX Coordinator is the individual responsible for the coordination and administration of Wooster’s non-discrimination and harassment policies. The Title IX Coordinator monitors overall compliance with Title IX, ensures appropriate action is taken to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator is available to provide information regarding policies, process, procedure, and support resources. The Title IX Coordinator may receive reports at any time via the email address or mail address below.

The College has designated and authorized Lori Makin-Byrd as the Title IX Coordinator who may be reached at:

- Lori Makin-Byrd, Title IX Coordinator; Director of Sexual Violence Prevention and Response; lmakin-byrd@wooster.edu; Longbrake Wellness, 570 East Wayne Avenue, Wooster, OH 44805; (330) 263-2017

RESOURCES AND REPORTING

College of Wooster officials, depending on their roles at the College, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and responsible reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality, offering options and support without any obligation to inform an outside agency or individual unless a complainant has requested

information be shared (legal limits on confidentiality, including, but not limited to, situations in which there is a report of child abuse or direct threat of harm to self or others, still apply).

At the time a report is made, a complainant does not have to decide whether or not to request any particular course of action, nor does a complainant need to know how to identify what happened. The College provides support that can assist a complainant in making these important decisions. To the extent possible, the College will respect a complainant's autonomy in deciding how/if they wish to proceed. When a threat of harm exists to the complainant or to other members of the campus community, the College may have to proceed with actions in spite of the complainant's request.

The College's policy, definitions, and burden of proof may differ from Ohio criminal law. A complainant may seek resolution through the College's resolution process, may pursue criminal action, may choose one but not the other, may pursue neither process, or may choose both options. Neither law enforcement's determination whether or not to prosecute a respondent nor the outcome of any criminal prosecution are determinative of whether prohibited conduct has occurred under this policy. Proceedings under this policy may be carried out prior to, concurrent with, or (in rare cases) subsequent to, civil or criminal proceedings off campus.

Reporting to Local Law Enforcement

A Title IX administrator or representative of Security and Protective Services will assist a complainant, at the complainant's request, in contacting local law enforcement and will coordinate with law enforcement agencies if a complainant decides to pursue the criminal process. A complainant has the right to notify, or decline to notify, law enforcement, under VAWA. Felonies reported to the College, except to confidential resources, must be reported to law enforcement by the College, as required by Ohio law (Ohio Revised Code 2921.22). The complainant may decline to participate in a law enforcement investigation.

Campus Reporting Options

Title IX Coordinator

To enable the College to respond to all reports in a prompt and equitable manner, the College encourages all students to report violations of this policy directly to the Title IX Coordinator. Employees are encouraged to report directly to the Title IX Coordinator. However, the College recognizes that a student or employee may choose to report to any trusted employee of the College. All College employees, except those who are designated as confidential resources, are considered "mandated reporters" and are required to share all known information related to a report, including the identities of the parties with the Title IX Coordinator. The College also designates "Officials with Authority", who are also required to report by the College and by the Department of Education's Office for Civil Rights. A list of Officials with Authority is available upon request. The Title IX Coordinator will also accept reports from any other persons not named in this section.

Student employees/volunteers who have responsibility for the welfare of other students, including Resident Assistants, are required to report all known information.

Reports to the Title IX Coordinator may be made 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. Such a report may be made at any time, including during non-business hours, by using the telephone number or electronic mail address, or by sending mail to the office address listed below.

Reports should be made to:

- Lori Makin-Byrd, Title IX Coordinator; Director of Sexual Violence Prevention and Response; lmakin-byrd@wooster.edu; Longbrake Wellness, 570 East Wayne Avenue, Wooster, OH 44805; (330) 263-2017

Security and Protective Services

The Security and Protective Services Department provides law enforcement response, crime prevention education, and security services to the campus community. The department also works closely with the Wooster Police Department, Wooster Fire Department, and other College offices to provide such services and resources to the Wooster community.

Reports can also be made directly to Security and Protective Services, 24 hours a day, 7 days a week:

- Security and Protective Services; Culbertson/Slater complex, 602 East Wayne Avenue; (330) 263-2590

Confidential Reporting

On-Campus

If a reporting party would like the details of an experience to be kept anonymous (no personally identifiable information to be shared), the reporting party may speak with a “confidential employee.” A “confidential employee” is a licensed medical, clinical, or mental health professional, or ordained clergy member fulfilling their role under that licensure or ordination. A “confidential employee” will not disclose a report to the College unless there is written consent to do so from the patient/client, there is the risk of imminent threat of harm to self or others, or there is reasonable suspicion of abuse of a minor (someone under the age of 18, or under the age of 21 with a developmental disability or physical impairment).

All employees in the Longbrake Student Wellness Center (with the exception of the Title IX Coordinator) as well as the College’s chaplain are “confidential employees.”

Off-Campus

A person may also speak with off-campus resources such as: off-campus local rape crisis counselors; intimate partner violence resources; local or state assistance agencies; or on- or off-campus members of the clergy.

Consistent with the Clery Act, any data collected from “confidential employees” about the disclosures of prohibited conduct will be done in an aggregate manner and in a way that does not reveal personally identifying information about the reporting party to include in annual crime statistics, address any systemic concerns, and/or inform training and educational programs.

Online Reporting Form

Any individual may also report using the College’s online reporting form (available at <http://wooster.edu/offices/title-ix/>). A report can be made without disclosing one’s own name, identifying the responding party, or requesting any action. Depending on the level of information provided about the experience or the individuals involved, anonymous reporting may limit the College’s ability to respond or take further action. As with all other reports, anonymous reports will be shared with the Title IX Coordinator. Where there is sufficient information, the College will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

Employees who have a duty to report information to the Title IX Coordinator may not make such reports anonymously.

SUPPORTIVE MEASURES

When Wooster has receives a report of prohibited conduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

“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 Wooster’s

education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Wooster's educational environment, or deter sexual harassment.

Supportive measures at Wooster may include: counseling and/or medical services, extension of deadlines or other course-related adjustments, modifications of work or class schedules, 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, and/or referral to campus and community support resources.

Wooster will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of Wooster to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Wooster offers supportive measures to both complainants and respondents. If the Title IX Coordinator does not offer supportive measures to the complainant, the Title IX Coordinator will document the reasons why they did or did not take such action.

The College of Wooster will implement initial remedial and responsive and/or protective actions upon notice of reported harassment, retaliation, and/or discrimination whether or not charges are initiated through the College's conduct system and/or the state criminal system. Persons who make a complaint (complainants) and those against whom a complaint is filed (respondents) have the same remedial actions available to them when appropriate.

Emergency Removal and Administrative Leave

If, after receipt of a complaint and an individualized safety and risk assessment, Wooster determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of prohibited conduct justifies removal of a respondent, Wooster may remove the respondent on an emergency basis. Threats must pose more than a generalized, hypothetical, or speculative risk to health and safety for emergency removal to be appropriate. Wooster will take steps to continue providing the removed respondent as much access to their educational activities as possible when the individual facts and circumstances of the removal are considered.

Respondents that are removed from campus may, within three business days of the removal, petition the Vice President for Student Affairs/Dean of Students for reinstatement. The petition must be in writing, and must include supporting documentation or evidence that the student does not pose, or no longer poses, an immediate threat to physical health or safety of any student or other individual arising from the allegations of sexual harassment and/or other allegations of prohibited conduct. A decision on such petition will be made by the Vice President for Student Affairs/Dean of Students or designee

Similarly, the College may impose administrative leave for any employee at the discretion of Human Resources and/or the Provost's Office, in consultation with the Title IX Coordinator. Administrative leave is non-disciplinary and non-punitive. Such leave will be structured at the College's discretion. The College will collaborate with the appropriate department or division head in structuring the leave.

PRELIMINARY INFORMATION

Timing of Complaints

All complainants are strongly encouraged to report prohibited conduct in a timely manner in order to maximize resources and support and to begin the investigation process efficiently to provide a thorough, impartial, and reliable investigation. If the respondent is a current College of Wooster student or employee, there is no time limit for filing a complaint to initiate the process. If a respondent is approaching graduation, the College reserves the right to withhold that student's College of Wooster degree pending the conclusion of the resolution process.

Filing a Criminal Complaint

The College of Wooster strongly recommends that all complainants who have experienced a criminal offense report to local law enforcement agencies. The College will not require an individual to speak with law enforcement officials. The filing and process for addressing prohibited conduct outside of the College's resolution process is a separate entity from the College. The College will not wait for a conclusion from local law enforcement for any criminal investigation or impending court proceedings. Law enforcement's determination of whether or not to initiate prosecution will hold no weight on the College's decision to charge a respondent through the College conduct process if it is believed that a violation of this policy may have occurred.

Should either party wish to cooperate with local law enforcement in a criminal investigation pertaining to a matter of sexual misconduct, they may do so under the guidance of the appropriate legal authority(ies) without fear of penalty by The College of Wooster for violating a no contact order issued by the College.

Effect of a Complaint on the Respondent

If a respondent is a current student, no notation will be placed on the respondent's personnel record of a complaint of pending disciplinary action prior to the conclusion of the resolution process. If a respondent chooses to withdraw from the College prior to the completion of the resolution process, a notation will be made in the student's personnel record that a withdrawal occurred with pending investigation and/or with a pending disciplinary action. Respondents are presumed to have not violated this policy until a determination regarding responsibility is made at the conclusion of the grievance process.

Amnesty for Minor Policy Violations

The College community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to College officials, and that witnesses come forward to share what they know. To encourage reporting, the College pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident. The use of alcohol or other drugs does not justify prohibited conduct, and a person who was incapacitated due to the use of alcohol or other drugs cannot consent to sexual activity.

Students: Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might be hesitant to help take a sexual misconduct victim to Security and Protective Services). The College pursues a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, the College will provide educational options, rather than punishment, to those who offer their assistance to others in need. The full policy is posted online: <https://www.wooster.edu/info/get-help/medical/>

Employees: Sometimes, employees are also hesitant to report harassment or discrimination they have experienced for fear that they may get themselves in trouble. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might be hesitant to report the incident to College officials. The institution may, at its discretion, offer employee reporting parties amnesty from some policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to witnesses on a case-by-case basis.

Advisors/Support Persons

A complainant or a respondent has the right to an advisor/support person of their choice. A complainant or respondent may select one advisor/support person of their choice to accompany them to meetings addressing the complaint. In order to protect the privacy of all parties involved, multiple advisors/support persons are not permitted.

Attorneys are permitted to act as advisors if the party chooses, at the party's own expense. The College does not provide or pay for attorneys as advisors. All advisors are subject to the same campus rules, whether they are attorneys or not. When an advisor is chosen, they will be provided a copy of the rules to review and sign. The advisor's role in any meeting, except a hearing, is limited to privately conferring with or writing notes to the complainant or respondent, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. The advisor may not submit material or speak on behalf of the party and may not address any other participant or the hearing panel.

Advisors are expected to refrain from interferences with the investigation and resolution. Any advisor who steps out of their role will be warned. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be warned and may be asked to take a break or to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated or may be replaced by a different advisor.

If a case proceeds to a live hearing, as discussed below, the party's advisor must conduct cross-examination of the other party and/or witnesses on that party's behalf. A party may not conduct cross-examination. If a party does not have an advisor present for the hearing, Wooster shall appoint an advisor to conduct cross-examination on behalf of that party. A College-appointed advisor will be able to be used solely for limited preparation for and service during the hearing. The College does not provide advisors for other parts of the process, including interviews, investigation review, appeal, etc. The Title IX Coordinator reserves the right to reschedule a hearing if required to allow appointment of an advisor. All advisors are expected to follow the campus rules with respect to hearing decorum. If an advisor refuses to comply with the rules, they may be removed from the hearing and a new advisor will be appointed. If an advisor is appointed for a hearing, the party with the appointed advisor may not "fire" or ask for a different advisor, so long as the appointed advisor is willing to conduct cross-examination and abide by the campus rules.

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

As a component of investigations and hearing cases, access to documentation may be necessary. The College provides a consent form that authorizes such access. The parties and all individuals protected by FERPA whose personally identifiable information is contained in the documents must complete this form before the College is able to share records with an advisor. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

The College expects an advisor to adjust their schedule to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor's inability to attend. The College will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video, and/or virtual meeting as may be convenient and available. If an advisor has scheduling conflicts that would require a hearing to be unreasonably delayed, the College may require the party that advisor serves to either choose a new advisor or utilize a College-appointed advisor.

PARTICIPATION BY REPORTING PARTY, RESPONDING PARTY, AND/OR WITNESSES

Any party involved in a prohibited conduct complaint has the right to decline participation in the investigation or complaint process. It is important to note that the College may continue with an investigation without the complainant's and/or respondent's participation. Complainants may submit a request to the Title IX Coordinator that the formal grievance process stop, however, the Title IX Coordinator retains discretion as to whether the process will continue.

RETALIATION

Retaliation is words or actions taken in response to reporting of a policy violation or participation in the College's complaint process or the follow up to a complaint. Neither Wooster nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by 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 the regulations

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 or the regulations, constitutes retaliation. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination adopted by Wooster.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under the regulations does not constitute retaliation, as described above, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this provision.

All persons who believe they have been subjected to retaliation under this policy are encouraged and entitled to seek support, utilize available resources, and come forward with their concern or complaint.

Behavior that may be considered retaliatory includes but is not limited to:

- Discouraging an individual from reporting an incident;
- Discouraging witness participation;
- Threatening or intimidating a participant in a complaint, investigation, and/or hearing;
- Intentionally causing negative consequences for a participant in a complaint, investigation, and/or hearing.
- Utilizing another individual to commit the behavior may also be considered a means of retaliation.

REQUEST FOR ANONYMITY WHEN REPORTING PROHIBITED CONDUCT

A complainant may desire to report prohibited conduct to the College, but wish to maintain anonymity. In these cases, the Title IX Coordinator will evaluate and review this request. The Title IX Coordinator will review the allegations, keeping in mind the necessary balance of the complainant's request while also recognizing the College's obligation to provide a safe environment for the Wooster community. Circumstances that will be considered include but are not limited to: seriousness of the conduct, the roles of the complainant and respondent at the College, the presence of violence and/or weapons, and if other complaints or reports have been made against the respondent.

The College will take all reasonable steps to investigate and respond to allegations of prohibited misconduct, but may be limited if a complainant requests anonymity, and it is granted. In cases where anonymity cannot be granted, the complainant will be notified in writing of the chosen course of action, and they will be given the option to opt out of participating in the process.

CONFIDENTIALITY AND PRIVACY REGARDING REPORTS OF PROHIBITED CONDUCT

Privacy generally means that information related to a report of prohibited misconduct will only be shared with those College employees and external investigators, if applicable, who "need to know" in order to assist in the active review, investigation, or resolution of the report, including the issuance of supportive measures. The College will determine which employees

have a legitimate need to know about individual complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).

Wooster must obtain written consent from a party before Wooster may receive any health or other treatment records. If a party provides written consent for medical or other treatment records to become part of an investigation's case file, both parties must be able to review and comment on those records if the investigation moves towards an investigative report and possible hearing.

Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without express permission of the individual or as otherwise permitted or required by law. These designated professionals have the right to maintain privileged conversations under state law. Confidential resources include licensed medical professionals, mental health professionals, and ordained clergy.

There are limits to confidentiality and they include:

- **Mandatory Reporting of Child Abuse**

All Wooster employees, including confidential resources, are required to immediately report any knowledge or reasonable suspicion that a minor (someone under 18 years old or under the age of 21 with a developmental disability or physical impairment) is experiencing abuse or neglect based on information shared by the minor, any other individual, or one's own observations or knowledge. Any Wooster employee suspecting abuse or neglect is required to bring all suspicions to the immediate attention of the Director of Security and Protective Services and the Title IX Coordinator. Wooster community members who are not employees are strongly encouraged to report any knowledge or reasonable suspicion of child abuse to the Director of Security and Protective Services or to law enforcement. In addition to notifying the Title IX Coordinator and the Director of Security and Protective Services, College employees must make a direct report to the Wayne County Children's Services Child Abuse Hotline at Report Abuse: 330-345-5340 / 1-855-642-4453 (855-O-H-CHILD).

- **Ohio Felony Reporting Requirement**

Under Ohio law, most individuals must report felonies, including sexual violence. This legal requirement means that the Title IX Coordinator or Security and Protective Services must report knowledge of any felony to the Wayne County Sheriff's Department. Where the College makes a report to law enforcement under this section, the College will communicate with the complainant what information and when the information was reported to law enforcement. To the extent reasonably possible, the College will communicate with the complainant in advance of any report to law enforcement. The complainant may choose whether and how to participate in any subsequent criminal investigation if one results.

- **Ohio Medical Professional Reporting Requirements**

In Ohio, medical professionals have distinct legally mandated reporting responsibilities. Where a medical professional knows or has reasonable cause to believe that serious physical harm resulted from an offense of violence, the medical professional is required to make a report to law enforcement. Medical professionals must deem a patient medically stable before reporting and must communicate to the patient that the patient does not have to report and/or speak to the police. If the patient chooses not to speak to police at the time of the medical examination, the medical professional does not need to report the patient's name - only the date, general time, and general location of the experience.

- **Risk of Harm to Self or Others**

Mental health professionals are required to disclose information where there is an imminent threat of the client harming themselves or others.

DISCLOSURE MANDATES

Clery Act Reporting

All higher education institutions that receive federal funding, including the College, are obligated to issue publicly an Annual Security Report ("ASR") which identifies the number of federally specified crimes on campus, on College property, or adjacent to campus. The ASR does not include identifying information about the persons involved in such incidents. The report provides anonymous statistical information for certain offenses that have been reported at campus locations.

Timely Warnings

A "timely warning" is a campus-wide notification to alert the campus community of a serious or continuing threat on campus. A timely warning issued in response to a report of prohibited conduct does not include identifying information about the complainant. However, it may include identifying information about a respondent if appropriate.

FILING A COMPLAINT

Individual

Any person who believes they have been subjected to prohibited conduct as defined in this policy by a member of the College community has the right to file a complaint against that person.

A person who has not been harmed, but has information about an allegation of prohibited conduct may also file a report. A person who makes such a report will be referred to as "the reporter".

PRIVACY AND ACCESS TO RECORDS

All parties involved in a hearing are encouraged to keep private all information learned in preparation for the hearing and at the hearing. Consistent with the Family Educational Rights and Privacy Act (FERPA) regulations, the parties, panel members, advisers, and external decision-makers may not share any copies of documents. All copies of documents provided must be returned to the College at the conclusion of the hearing and any appeals, and parties must certify that they have not kept a hard copy or electronic copy. Any violation of this obligation is subject to disciplinary action by the College. (The complainant and the respondent may retain a copy of the investigator's report.)

This section does not prohibit the complainant or the respondent from disclosing or discussing the complaint and/or the outcome of the resolution process.

RECORD RETENTION

The College will retain all records relating to a report of prohibited conduct for a period of seven years (7) after the date the report was received. The College will retain all such records indefinitely in cases in which the respondent was found to have violated the Policy and was expelled. All recorded reports of prohibited conduct will be stored by the Title IX Coordinator in a locked, secure location and/or in a secure digital database. Records related to student conduct, hearings and/or sanctions will be stored in the Office of Student Rights and Responsibilities in a locked, secure location and/or in a secure digital database.

Wooster will also maintain and publish on Wooster's website training materials of employees who serve as Title IX Coordinators, investigators, decision-makers, and persons who facilitate information resolutions.

TIMELINE OF THE PROHIBITED CONDUCT PROCESS

It is a goal to resolve complaints under the policy within 70 business days from notice of report. Business days will exclude the days that classes are not in session and/or College breaks. The timeframe will vary depending on complexity of the case, availability of witnesses, and certain times of the academic year. The College may extend an investigation process for reasonable circumstances and will provide this information to the complainant and respondent in writing. The 70-day window will not include appeals that may be filed.

INVESTIGATIONS

Investigations may take at least 30 business days to complete. During the investigation, both parties have the opportunity to present witnesses and other evidence. Witnesses should not be presented if they are only "character" witnesses. A witness must have relevant information pertaining to the allegations.

The investigation process does not allow for a party to have a full list of witnesses that are being interviewed as part of the investigation. Both parties and witnesses should provide all information to the investigator and Title IX administrators during their meetings. A witness may be brought forward at any time by either party or requested by the investigator through information disclosed in interviews.

During an investigation and until resolution has been determined, the Title IX Coordinator will continue to assess if supportive measures for both parties are appropriate, and if so, implement those measures. The Title IX Coordinator also reserves the right to consider whether emergency removal or administrative leave is appropriate at any point during the grievance process.

Intake Meeting

A Title IX administrator will conduct an intake meeting with the complainant and respondent separately. As is appropriate, the intake meeting may also include other employees, specifically a Title IX designee, a representative from the Provost's office, and/or a representative from Human Resources. The complainant and respondent may request to meet solely with the Title IX Administrator.

The intake meeting with the complainant will:

- Discuss immediate concerns for physical safety and emotional well-being.
- Notify complainant of their option (and right to decline) to file a report with local law enforcement agencies, seek medical treatment off-campus, and the importance of preserving evidence, as is applicable to the reported incident. The Title IX administrator will provide resources if a complainant wants assistance contacting any of these agencies.
- Provide information for confidential and private reporting options on-campus and off-campus.
- Issue information about resources, supportive measures, and remedies both on-campus and off-campus including, but not limited to, counseling services, victim advocacy, housing accommodations, academic support, no contact orders, campus safety escorts, work situations, and transportation, regardless of whether a formal report is made to the College or local law enforcement.
- Provide an overview of the procedure, process, and options for resolution.
- Discuss the steps required for a complainant to submit a formal complaint.
- Explain the right to an advisor of choice/support person.
- Discuss if there is pattern evidence or other similar conduct by the respondent (if known at the time of intake).
- If anonymity is requested by the complainant, the conditions and limits of anonymity are discussed, as well as whether anonymity is appropriate for the reported incident.
- Explain the applicability of the College's amnesty policy.
- Explain retaliation and the prohibition of it.
- Discuss the Clery Act and Ohio Revised Code obligations. Complainant's personally identifiable information will never be shared with the campus community and/or with local law enforcement unless requested.

This information will also be provided in writing.

The Title IX administrator will ask questions to gain a basic understanding of the reported prohibited conduct. The questions will address the key facts to appropriately assess and determine next steps moving forward. If a complainant wants to move forward with a formal complaint, the Title IX administrator will determine if the formal complaint meets the following:

- Does the information provided constitute a violation of the College's sexual misconduct policy?
- Does the conduct meet the threshold of being considered sexual harassment?
- Should the College offer informal resolution?

The determination for next steps will be made within three (3) business days of the intake meeting, and the complainant will be notified in writing of next steps.

If upon review of the formal complaint, Wooster determines any of the following, Wooster will dismiss the complaint from investigation under this Policy if the alleged conduct:

- The prohibited conduct in the formal complaint would not, if proven, constitute Title IX Misconduct; or
- The prohibited conduct is alleged to have occurred outside of Wooster's Title IX Jurisdiction.

Wooster may also use Title IX Dismissal for a formal complaint when:

- 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 Wooster, or;
- Specific circumstances prevent Wooster from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Such a dismissal does not preclude Wooster from proceeding under another College conduct process.

The intake meeting with the respondent will:

- Discuss immediate concerns for physical safety and emotional well-being.
- Notify respondent that the complainant has the option (and right to decline) to file a report with local law enforcement agencies and seek medical treatment off-campus.
- Notify the respondent of the allegations of the complaint.
- Provide information about resources, interim measures, and remedies both on-campus and off-campus including, but not limited to, counseling services, housing accommodations, academic support, no contact orders, campus safety escorts, work situations, and transportation, regardless of whether a formal report is made with the College or local law enforcement.
- Provide an overview of the procedures, process, and options for resolution.
- Explain the right to an advisor of choice/support person.
- Discuss if there is a pattern evidence or other similar conduct by the respondent.
- Explain the applicability of the College's medical assistance amnesty policy.
- Explain retaliation and the prohibition of it.
- Discuss the Clery Act and Ohio Revised Code obligations.

This information will also be provided in writing.

If the Title IX administrator determines that there is need for a formal resolution, then the College will proceed with initiating a formal investigation.

Formal Investigation

Both parties will typically receive notice in writing that a formal investigation is commencing within three (3) business days of filing of a formal complaint. The notice will include:

- Complainant's name
- Respondent's name
- Reported policy violation(s)
- Date(s) and time(s) of reported policy violation(s)
- Location(s) of reported policy violation(s)
- Any other information about the allegations to provide sufficient details known at the time for the party to prepare a response before any initial interview with an investigator
- Wooster's grievance process
- Wooster's position 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
- Information about the investigator
- Opportunity to provide a list of witnesses who have relevant information to the allegations.
- The parties' right to have an advisor of their choice, who may be an attorney
- The parties' right to inspect and review evidence
- Wooster's prohibition on knowingly making false statements or knowingly submitting false information during the grievance process

If, in the course of an investigation, Wooster decides to investigate allegations about the complainant or respondent that are not included in the initial notice, Wooster will provide notice of the additional allegations to the parties whose identities are known.

If the Respondent has failed to respond to meeting requests, the notification will also include:

- Information about resources, supportive measures, and remedies both on-campus and off-campus including, but not limited to, counseling services, housing accommodations, academic support, no contact orders, campus safety escorts, work situations, and transportation, regardless of whether a formal report is made with the College or local law enforcement.
- Any supportive measures that have been enacted.
- Notification that the complainant has the option (and right to decline) to file a report with local law enforcement agencies and seek medical treatment off-campus.
- Overview of the procedures, process, and options for resolution.
- The right to an advisor of choice/support person.
- Explanation of the applicability of the College's medical assistance amnesty policy.
- Explanation of retaliation and the prohibition of it.
- The Clery Act and Ohio Revised Code obligations.

The assigned investigator will begin the formal investigation promptly, and will conduct the investigation in a manner that is complete, thorough and impartial. During the investigation, both the complainant and respondent may present statements, witnesses and other evidence to the investigator. The complainant, respondent, and witnesses with relevant information may be interviewed as part of the full investigation. The interviews will be supplemented by gathering of any physical, documentary, or other evidence, as appropriate and available. Follow-up interviews may be conducted by the investigator as needed. The full investigation is designed to provide a fair and reliable gathering of the facts.

Consolidation of Formal Complaints

Wooster may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. The same facts and circumstances means that the multiple complainants' allegations are so intertwined that their allegations directly relate to all parties.

Cases involving prohibited conduct under this policy and other misconduct from another Wooster policy will be adjudicated through the process under this policy. The decision-maker/hearing panel will use the language from the outside policy to determine if a violation occurred and consult with a relevant office for a determination of sanctioning if necessary.

RESOLUTIONS

Informal Resolution

There are times when informal resolution to a complaint is appropriate. The informal resolution process is designed to eliminate a hostile environment without taking formal disciplinary action against a respondent.

Wooster does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, the waiver of the right to an investigation and adjudication of formal complaints of sexual harassment under Wooster's grievance process. Similarly, Wooster will never require the parties in a sexual harassment allegation to participate in an informal resolution process, as described below.

After the initiation of a formal complaint of sexual harassment, if all parties voluntarily consent in writing, Wooster may offer the possibility of an informal resolution process. An informal resolution process is available at any time prior to reaching a determination regarding responsibility in the grievance process, except in the cases of reports of sexual harassment of a student by a Wooster employee.

Before initiating an informal process, Wooster will: (1) provide the parties a written notice; and (2) obtain the parties' voluntary, written consent to the informal resolution process. The written notice that Wooster will provide to the parties will disclose the allegations, the requirements of the informal resolution process (described below), and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Participation in informal resolution is voluntary, and a complainant or respondent can request to end informal resolution at any time. Pursuing informal resolution does not preclude later use of formal resolution if the informal resolution fails to achieve a resolution acceptable to the parties and to the College and/or one party violates the terms of the informal resolution. The Title IX Coordinator retains the discretion to determine if informal resolution is available for a specific case and, if applicable, the type of informal resolution that may be appropriate in a specific case.

As part of informal resolution, the Title IX Coordinator may:

- Resolve the report through the implementation of remedies when there is sufficient information about the nature and scope of the conduct to support such a response.
- Act promptly to meet with the parties involved to inform them of the corrective actions.

Remedies may include any option outlined in the Supportive Measures section of this policy. Other potential remedies may include targeted or broad-based educational programming or training, supported direct confrontation of the respondent, mediation when appropriate, and/or indirect action by the Title IX Coordinator or the College.

Formal Resolution

If an investigation proceeds to a formal resolution, the following procedures apply:

Hearing

Formal resolution of a complaint involves adjudication of the complaint through a Conduct Hearing. A Conduct Hearing is comprised of 1-3 voting members, none of which will be individuals who served as the Title IX Coordinator or investigator for that case. The Hearing may be conducted by a single decision-maker or a hearing panel. Sanctions may be determined by

a single decision-maker or in consultation with a sanctioning panel. The voting members have all received training on hearing cases of sexual misconduct.

A complainant and/or respondent may challenge the participation of a Conduct Hearing member because of perceived conflict of interest, bias, or prejudice. Such challenges, including rationale, must be made to the Title IX Coordinator at least 48 hours prior to the commencement of the hearing. It should be noted that in these cases, the hearing may be delayed to determine an appropriate replacement for any removed panel member. At its discretion, the Title IX Coordinator will work with the Dean of Students Office (for students), Human Resources (for staff), and/or the Provost's Office (for employees) to determine whether a panelist should be replaced or not. A panelist will be replaced when they recuse themselves or when it is determined that their bias precludes an impartial hearing of the allegation.

Hearings will be conducted with all parties physically present in the same geographic location or, at Wooster's discretion or the request of either party, 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.

A respondent, complainant, advisor of choice, and/or witness may not bring electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) into a hearing room. The Decision-Maker/Panel will make an audio recording of the hearing to be kept on file in a secure location in the and/or in a secure database management system for at least seven years. Files related to cases of prohibited conduct may be kept indefinitely. Reasonable care will be taken to create a quality audio recording and minimize technical problems; however, technical problems that result in no recording or an inaudible one will not be a valid argument for appeal.

Either the complainant or respondent may call specific witnesses to testify at the hearing. The Decision-Maker/Panel may also request witnesses to participate so their statements may be subjected to cross-examination by the parties' advisors. It is the expectation of the College that all relevant witnesses will have participated in the prior investigation. The request for witness participation in the Conduct Hearing will be submitted in writing and should include the rationale for why a witness was unable to participate in the prior investigation (if applicable).

At the live hearing, the Decision-Maker/Panel will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. All questioning will be relevant, respectful, and non-abusive. No party will be "yelled" at or asked questions in an abusive or intimidating manner (see Advisor Agreement).

The Decision-Maker/Panel may determine a question is irrelevant, however, parties are not permitted to waive a question. The Decision-Maker/Panel will make these relevancy determinations in real time through a chair-person. Other panelists do not make relevancy determinations on questions, but do vote on the outcome of the hearing/sanctions.

If a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker/Panel will not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Decision-Maker/Panel will not 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. Exceptions to this rule will not be made, including for:

- Statements against a party's interest;
- Unavailability of a witness, including for death or post-investigation disability;
- Statements of a party or witness contained within police or SANE reports;
- Statements in texts or emails which do not constitute verbal conduct.

Video evidence showing the conduct alleged within a complaint may be considered, even if the party does not submit to cross-examination.

A respondent's alleged verbal conduct, that itself constitutes the sexual harassment at issue, is not considered the respondent's statement, and constitutes part or all of the underlying allegation of sexual harassment itself.

Evidence

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Wooster and not on the parties.

Wooster will not 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 Wooster obtains that party's voluntary, written consent.

Wooster will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

Wooster will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. A party's communication with a witness or potential witness is considered part of a party's right to meaningfully participate in furthering the party's interests in the case, and not an "interference" with the investigation. However, where a party's conduct toward a witness might constitute "tampering" (for instance, by attempting to alter or prevent a witness's testimony), such conduct also is prohibited as retaliation.

The parties will 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 Wooster does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source. Wooster will not consider or provide for inspection and review evidence which Wooster knows was illegally or unlawfully created or obtained. Wooster may impose on the parties and party advisors restrictions or require a non-disclosure agreement not to disseminate any of the evidence subject to inspection and review (see Advisor Agreement).

Prior to completion of the investigative report, Wooster will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

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

Investigative Report

The investigator will prepare an investigative report that fairly summarizes relevant evidence (as defined in the "Relevance" section) and, at least 10 days prior to a hearing or other time of determination regarding responsibility, send to each party and each party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. The report will not include a summary of evidence not considered to be relevant. If a party disagrees with an investigator's determination about relevance, the party may argue relevance in their written response and/or to the decision-maker/panel at the hearing.

The investigative report may include recommended findings and conclusions, however, the decision-maker/panel will objectively evaluate relevant evidence and will not defer to recommendations made by the investigator.

The investigative report may include a credibility analysis, but such analysis cannot result in a determination regarding responsibility.

If the report involves multiple complainants, multiple respondents, or both, the investigator may issue a single investigative report.

A. Relevance

During the hearing, only relevant cross-examination and other questions may be asked of a party or witness.

The following may be considered irrelevant for both questioning purposes at the hearing and for preparation of the investigative report:

- Repetition of the same question;
- Evidence that is duplicative of other evidence;
- Information protected by a legally recognized privilege;
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior, 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;
 - 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;
- Any party's medical, psychological, and similar records, unless the party has given voluntary, written consent, and;
- Party or witness statements that have not been subjected to cross examination at a live hearing.

Wooster will not exclude relevant evidence because such relevant evidence may be unduly prejudicial, concern prior bad acts, or constitute character evidence, however, the decision-maker/panel may objectively evaluate such evidence by analyzing whether that evidence warrants a high or low level of weight or credibility.

Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker/chair of the panel will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. A decision-maker/chair of the panel may request to review questions the advisors plan to ask during a live hearing, however, it is not required that an advisor provide such questions.

Decision-makers/chair of the panel are not required to give a lengthy or complicated explanation of a relevancy determination during the hearing. The decision-maker/chair of the panel may send to the parties after the hearing any revisions to the decision-maker's/chair of panel's explanation that was provided during the hearing.

If a party does not have an advisor present at the live hearing, Wooster will provide without fee or charge to that party, an advisor of Wooster's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. Parties will not be permitted to conduct cross examination on their own. Wooster may require parties to acknowledge whether they intend to have an advisor present during the hearing. A College-appointed advisor will be able to be used solely for limited preparation for and service during the hearing. The College does not provide advisors for other parts of the process, including interviews, investigation review, appeal, etc.

After the hearing, the decision-maker/panel will conduct an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence. The decision-maker/panel will not require, allow, rely upon, evaluate, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected by a legally recognized privilege (e.g., attorney client), unless the person holding such privilege has waived the privilege. The decision-maker/panel will then issue a written determination of responsibility. The determination of responsibility will include:

- 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 the Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Wooster imposes on the respondent, and whether remedies will be provided by Wooster to the complainant, and;
- Wooster's procedures and permissible bases for the complainant and respondent to appeal.

The determination will lay out the evidentiary basis for conclusions reached in the case. The nature of remedies, if any, will not be included within the determination. The determination will be provided to the parties simultaneously. The determination becomes final only after the time period for appeal has expired or, if a party does file an appeal, after the appeal decision has been sent to the parties.

B. Weighing Credibility

The decision-maker/panel will evaluate all admissible, relevant evidence for weight or credibility. 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/panel, 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. Corroborating evidence is not required.

Credibility determinations are not based solely on observing demeanor, but also are based on other factors (e.g., specific details, inherent plausibility, internal consistency, corroborative evidence). Cross-examination brings those important factors to a decision-maker's/panel's attention.

A party's answers to cross-examination questions can and should be evaluated by a decision-maker/panel in context, including taking into account that a party may experience stress while trying to answer questions. Parties will not be unfairly judged due to inability to recount each specific detail of an incident in sequence, whether such inability is due to trauma, the effects of drugs or alcohol, or simple fallibility of human memory.

C. Sanctions and Remedies

If it is determined that a respondent violated the policy, the Decision-Maker/Panel will determine appropriate sanctions. Sanctions may be determined in consultation with the Dean of Students Office (for students), Human Resources (for staff), and the Provost's Office (for faculty). Sanctions are instituted with the goal of stopping the conduct and preventing its recurrence. Sanctions for respondents may include anything from a warning, up to and including disciplinary expulsion or termination. When determining the appropriate sanctions to be imposed, consideration shall be given to the principle that the sanctions should be proportionate to the offense, seek to educate the respondent, but also to provide a remedy to the complainant, and prevent recurrence of the offense for the protection of the campus community as a whole. Any person determined to be responsible for violation of the policy should expect to receive College sanctions, up to and including disciplinary expulsion or termination. Sanctions may also include educational requirements, restorative measures, and implementation/continuation of protective measures.

For student respondents, sanctions may include, but are not limited to: warning; required participation in assessment and/or counseling; educational program or paper; housing relocation or future housing restrictions; mutual or non-mutual no contact orders; restriction on participation in student activities, leadership roles, athletic activities, etc.; restrictions on course

assignments; restrictions on campus movement or access to various campus spaces; loss of future privileges; disciplinary probation; suspension with conditions for return; expulsion.

For faculty and employee respondents, sanctions may include, but are not limited to: warning; performance improvement plans; letters of reprimand; letter in personnel/tenure/promotion file; educational interventions; targeted coaching; mutual or non-mutual no contact orders; office or work location relocation; assignment to different work duties; referral to Employee Assistance Program; required participation in assessment and/or counseling; restrictions on merit salary increases; restrictions on leadership opportunities; restrictions on College-sponsored travel; detouring; demotion; suspension with or without conditions for return; termination.

Where a determination of responsibility for sexual harassment is made, Wooster will provide remedies to a complainant designed to restore or preserve equal access to Wooster's education program or activity. Such remedies may include the same individualized services provided as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. The Title IX Coordinator is responsible for effective implementation of remedies. Where the final determination has indicated that remedies will be provided, the complainant can then communicate separately with the Title IX Coordinator or their designee to discuss what remedies are appropriately designed to preserve or restore the complainant's equal access to education. Remedies for a complainant which do not affect the respondent must not be disclosed to the respondent.

a. Appeals

Complainants and respondents may appeal the decision-maker's/panel's determination regarding responsibility, or Wooster's Title IX Dismissal of a formal complaint or any allegations therein. Wooster will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. Both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The decision-maker for the appeal will issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties.

Grounds for appeal include:

- Procedural irregularity that affected the outcome of the matter⁵;
- 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.

All grounds for appeal will be available to all parties.

The decision-maker for the appeal will not be the same person as the decision-maker/panel that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.

STANDARD OF PROOF

In resolving complaints of discrimination, harassment, and sexual misconduct, the College will use a "preponderance of evidence" standard, which is "more likely than not" that a violation occurred. This is a lower evidentiary standard than that imposed through courts in criminal cases which is "beyond a reasonable doubt."

⁵ Procedural irregularity includes Wooster's failure to objectively evaluate all relevant evidence, including inculpatory and exculpatory evidence. It also includes erroneous relevance determinations.