

A. POLICY

This policy relates directly to the Title IX compliance provisions of the Education Amendments Act of 1972. This policy provides guidance on violations that apply to alleged sexual harassment that takes place on College property or in connection with any activity sponsored, conducted, or authorized by the college or by a recognized student organization, regardless of the location of the activity.

This policy may also apply to alleged sexual harassment that occurs off-campus when the Title IX Coordinator or Deputy Title IX Coordinator determines that the alleged off-campus conduct could reasonably create a hostile environment or a continuing adverse effect on campus, or where the sexual harassment undermines the security of the College community or the integrity of the educational process.

B. POLICY GUIDELINES

Zane State College:

(1) reaffirms its commitment to an academic, work, and study environment free of inappropriate and disrespectful sexual conduct and communication in any form. All students and employees are protected under and subject to the guidelines of this policy.

(2) The College will conduct its programs, services and activities in accordance with applicable federal laws, including Title IX of the Education Amendments of 1972, state and local laws, and College policies.

(3) This policy prohibits all forms of sexual or gender-based harassment, including, domestic violence, dating violence, and stalking.

(4) This policy prohibits retaliation against an individual because of their good faith participation in the reporting, investigation, or adjudication of violations of this policy.

(5) All students and employees have a responsibility to be aware of this policy's contents, to abide by its terms, and assist in its enforcement. All supervisory personnel will ensure that those under their supervision are aware of the policy, receive a copy of it, and will from time to time, reinforce the College's commitment to the policy. From time to time, one or more College offices will disseminate materials throughout the College concerning the effective prevention of sexual harassment.

(6) The College reserves the right to investigate circumstances that may involve sexual harassment in situations where no complaint, formal or informal, is filed.

(7) The Title IX Coordinator is responsible for the administration of this policy. One or more Deputy Title IX Coordinators may be designated to carry out any duties of the Title IX Coordinator.

(8) The President, the Title IX Coordinator, the Title IX Deputy Coordinator and every employee is responsible for assuring compliance with this policy.

- 9) In appropriate circumstances, sanctions in accordance with this policy may be implemented pursuant to applicable College policies, procedures and employment agreements.

Notice of Non-Discrimination

Zane State College does not discriminate on the basis of sex in any education program or activity, admissions, or employment, and it is required by the Title IX regulations not to discriminate in such a manner. Inquiries about the application of Title IX may be addressed to the College's Title IX Coordinator.

Prohibited Conduct

The College prohibits discrimination on the basis of sex.

Definitions

- (1) **“Consent”** in connection with sexual conduct is not specifically defined under Ohio law. However, under Ohio law the following circumstances are not consent:
- a) if the offender substantially impairs the victim's judgment or control by administering any drug, intoxicant or controlled substance to the other individual surreptitiously or by force, threat of force or deception;
 - b) if the victim's ability to apprise the nature of or control his/her own conduct is substantially impaired;
 - c) if the victim is coerced;
 - d) if the offender uses force or threat of force;
 - e) if the victim is unaware the act is being committed (e.g. unconscious); or
 - f) if the victim's ability to consent is substantially impaired because of a mental or physical condition or because of advanced age.
- (This is a non-exhaustive list and does not constitute legal advice.)
- (2) **“Education ‘Program’ and ‘Activity’”** means “all of the operations” of a postsecondary institution; this includes locations, events, or circumstances over which the recipient exercised substantial control.
- (1) **“Formal complaint”** is document signed by a complainant or by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the institution investigate the allegation of sexual harassment.
- (2) **“Retaliation”** is adverse actions taken against a person because of their participation in the following types of protected activities:
- a) seeking advice or assistance about a discrimination concern or possible incident of sexual violence;
 - b) posing or filing an informal or formal complaint against conduct reasonably believed to constitute discrimination or sexual violence; or
 - c) testifying, assisting, or participating in an investigation or other proceeding related to a complaint of discrimination or sexual violence.

- (5) **“Adverse actions”** are actions that would dissuade a reasonable person from making or supporting a complaint of discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking.
- (6) **“Parties”** includes both the individual who is alleged to be the victim of conduct that could constitute sexual harassment (“complainant”), and the individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment (“respondent”).
- (7) **“Sexual harassment”** means conduct on the basis of sex that satisfies one or more of the following:
- a) An employee of the College conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
 - b) Unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or
 - c) “Sexual assault” as defined in as defined in 34 CFR 668.46(a) 20 U.S.C. 1092(f)(6)(A)(v),
 - d) “dating violence” as defined in 34 U.S.C. 12291(a)(10),
 - e) “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or
 - f) “stalking” as defined in 34 U.S.C. 12291(a)(30).

Reporting guidelines

The College strongly encourages all individuals to seek assistance from a medical provider and/or law enforcement officer immediately after an incident of sexual violence or relationship violence, whether or not the individual plans to pursue criminal action. This is the best option to ensure preservation of evidence and to begin a timely response by law enforcement and/or the College.

(1) Duty to report

- a) Any College employee who becomes aware of information that would lead a reasonable person to believe that sex discrimination and/or harassment has occurred must notify the Title IX Coordinator or Deputy Coordinator as soon as possible, but in any event, within, five (5) working days after becoming aware of the information. A student worker has a duty to report violations of this policy of which he/she becomes aware in the course of his/her work, when those duties include responsibility for the safety and well-being of other members of the campus community.
- b) In addition to the duty to report sex discrimination to the Title IX Coordinator or Deputy Coordinator as identified above, in some circumstances there is a duty to report allegations of criminal conduct to law enforcement authorities.
Section 2921.22 of the Ohio Revised Code requires any individual who knows that a felony has been or is being committed, to report it to law enforcement authorities. It is a criminal offense to knowingly fail to make the report. Anyone who suspects or has knowledge of criminal activity occurring on College property should connect with Zane State College’s Office of Human Resources or the Campus Facilities Department.
College employees, students, guests and visitors can also refer to the published safety contact information contained in the College’s ‘Emergency Procedures Quick Reference Guide.’ The Guide is available in most College offices and public areas.
Incidents that occur off campus should be reported to applicable local law enforcement.
- c) All College community members, even those who are not obligated by this policy, are strongly encouraged to report information regarding any incident of sex discrimination to the Title IX Coordinator.

(2) Filing a formal report of violation of this policy.

The College will promptly investigate all allegations of sexual harassment in as confidential manner as possible.

The Title IX Coordinator and Deputy Coordinator serves as the recipient of any formal complaint or report of harassment. Other offices of the College may handle certain aspects of the College response, such as the Office of Human Resources, Chief Student Affairs Officer, Title IX Investigator and Public Safety.

The Title IX Coordinator is responsible for overseeing the investigation of complaints under this policy, and monitoring/coordinating the response of other campus offices that may respond to complaints of sex-based offenses under this policy, including complaints of retaliation for filing a complaint on the basis of this policy. The College's Title IX Coordinator's contact information can be found at the Title IX website (www.zanestate.edu/titleix)

(3) Self-reporting of sexual offenses

An individual who is a victim or survivor of sexual harassment is encouraged to contact the Campus Security or the law enforcement agency with jurisdiction in the location of the incident.

Reporting an assault to Campus Security may not require criminal prosecution; however, it does allow the College to assist and provide additional resources and support.

(4) Confidential assistance for victims or complainants

The College will preserve student and employee's confidentiality to the extent possible and allowed by law. The degree to which confidentiality can be protected, however, depends upon whether or not the individual to whom the sex-based offense is reported is required by law to report this information to law enforcement. Confidential reporters may include licensed counselors, licensed social workers and other health care providers.

Students will be clearly informed by any College employee if a confidential medical/health care professional relationship is being established and will have the choice of whether to enter into such a relationship.

No College employee has the authority to establish a confidential medical/health care professional relationship with any other College employee or with any person other than a student who has been specifically informed such a relationship is being established.

(5) Privacy/Confidentiality

- a) Information received in connection with the filing, investigation, and resolution of allegations will be treated as confidential except to the extent it is necessary to disclose information in the course of the investigation, for the purposes of addressing conduct or practices that may violate the policy, or when required to do so by law. All persons involved in the process should observe the same standard of discretion and respect for the privacy of persons involved in the process.
- b) If the complaint contains sufficiently detailed information about conduct that may constitute a crime, the matter will be reported to Campus Security.
- c) Pursuant to the Clery Act and the 2013 Amendments to the Violence Against Women Act, the Title IX Coordinator will share anonymous statistical information regarding reported criminal incidents with Campus Security for inclusion in the Daily Crime Log. The College may also

share aggregate and non-personally identifiable data about reports, outcomes, and sanctions as permitted or required by law.

- d) All College proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, the Violence Against Women Act, Family Educational Rights and Privacy Act (FERPA), state and local law, and College policy. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or College policy.

(6) Cooperation with investigation

An individual with a duty to report will actively provide information in the time and manner deemed necessary and appropriate by the College to conduct the investigation. Failure to cooperate with the investigation process in a timely manner may compromise the College's ability to conduct an investigation and address allegations fully and may result in disciplinary or other action.

(7) Anonymous complaints

Anonymous complaints or reports in which the complainant does not wish to disclose his or her name to the respondent will be accepted; however, the College's ability to obtain additional information may be compromised and the ability to investigate or resolve anonymous complaints may be limited. Currently, an anonymous report can be made by submitting a written document through regular mail or campus mail to Title IX Coordinator or Deputy Coordinator;

The College reserves the right to determine whether or not it can honor the complainant's request for anonymity while providing a safe and nondiscriminatory environment for all community members, including the complainant. The Title IX Coordinator or Deputy Coordinator will receive the anonymous report and will determine if the request for anonymity can be honored. The Title IX Coordinator will take any appropriate steps, including individual or community remedies as appropriate. Such steps will be taken in consultation with Campus Security as appropriate, and in compliance with all Clery Act and Campus SAVE Act obligations.

(8) Filing a false complaint

It is a violation of this policy for anyone knowingly to make false accusations of harassment or misconduct. Doing so may result in disciplinary action. Failure to prove a claim of sexual harassment or misconduct is not equivalent to a false accusation. If an investigation of a complaint demonstrates that the complaint was knowingly filed with false or malicious information, the Title IX Coordinator will refer the matter to the appropriate College office for further action.

(9) Retaliation and Discipline

The College will not retaliate against any student or employee for reporting or participating in the investigation, proceeding, or hearing regarding a complaint of harassment. Any student or employee who is determined to have engaged in conduct in violation of this policy will be subject to appropriate disciplinary action, up to and including suspension or expulsion (in the case of a student) or termination (in the case of an employee) in accordance with the Student Code of Conduct or applicable employee policies or handbooks.

(10) Bystander intervention

The College expects all College community members to take reasonable and prudent actions to prevent or stop an act of sexual harassment. Taking action may include direct intervention, calling law enforcement, or seeking assistance from an individual in authority. College community members who choose to reasonably intervene will be protected from retaliation.

Supportive Measures

Upon receipt of a report of sexual harassment, the College will provide non-disciplinary, non-punitive individualized services to the complainant, the respondent, and others e.g., witnesses, to prevent further acts of misconduct, and to provide a safe educational and/or work environment. Complainants have the right to supportive measures from the College regardless of whether they file a formal complaint. The College will determine the necessity and scope of any supportive measures. Even when a complainant does not specifically request that protective action be taken, the College may choose to impose supportive measures at its discretion to ensure the safety of any individual, the broader College community, or the integrity of the review process.

A student or employee seeking such assistance or supportive measures should contact the Title IX Coordinator or Deputy Coordinator, who will coordinate such requests.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by supportive measures. The College will take immediate and responsive action to enforce measures previously ordered or implemented by the College.

The College may impose any remedy that can be tailored to the involved parties to achieve the goals of this policy, even if not specifically listed here. The range of supportive measures may include, but are not limited to:

- (1) **No Contact Order:** A complainant or respondent may request, or the College may impose, communication and contact restrictions to prevent further potentially harmful interaction. These communications and contact restrictions generally preclude any individual, telephone, electronic or third-party communications. The College may also limit an individual or organization's access to certain College facilities or activities as part of the no contact order.
- (2) **Academic, Employment Modifications:** A complainant or respondent may request an academic or employment accommodation after a report of sexual misconduct. An individual who requests assistance in changing their academic or employment situation after an incident of sexual misconduct will receive appropriate and reasonably available accommodations. These may include:
 - a) Academic accommodations, including a change in class schedule, taking an incomplete, dropping a course without penalty, attending a class via electronic, remote, or other alternative means, providing an academic tutor, or extending deadlines for assignments;
 - b) Change in work assignment or schedule;
 - c) Providing an escort to ensure safe movement between classes and activities.
- (3) **Emotional Support:** The College will assist in providing referral to off-campus agencies or providers, as described in the reference section of this policy. Such support is available to any member of the College community.

- (4) **Emergency Removal/Administrative Leave:** When a report of sexual harassment indicates that there may be an ongoing risk of harm to the safety or wellbeing of an individual or members of the campus community, the College may place an individual or organization on interim suspension or impose leave for an employee. Pending resolution of the complaint, the individual or organization may be denied access to campus. When interim suspension or leave is imposed, the College will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

Procedures

- (1) An individual who believes he or she has experienced or witnessed harassment is encouraged to bring forward a complaint under the procedures for investigating complaints of harassment to the Title IX Coordinator or Deputy Coordinator.
- (2) An individual who believes he or she has experienced sexual harassment or assault is encouraged to seek medical treatment in order to preserve evidence and receive treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services.
- (3) The College will endeavor to resolve all Title IX complaints or reports and respond promptly.

The investigation and resolution (including appeal) of all complaints or reports will generally be completed within 60 days. Extenuating circumstances, including the complexity and severity of a complaint, may exist that require the complaint process to extend beyond 60 calendar days. In general, a complainant and respondent can expect to receive periodic updates about the status of the review or investigation. If the investigation and resolution exceed this time frame, the College will notify all parties of the need for additional time and best efforts will be made to complete the process in a timely manner.

- (4) Any employee accused of sexual harassment is entitled to any due process which may be provided by other College policies or handbooks. Any student accused of sexual harassment is entitled to due process in accordance with the College's Student Code of Conduct or other applicable policies or handbooks.

Notwithstanding the foregoing, any student who is also a student worker will be subject to the procedures applicable to students, and not to any procedures applicable to College employees.

- (5) Once a complaint of sexual harassment has been made, the individual taking the complaint must gather important and relevant facts from the complainant. If the Title IX Coordinator or Deputy Coordinator is not the recipient of the complaint, the individual taking the complaint should immediately contact the Title IX Coordinator or Deputy Coordinator for guidance and assistance. In any event, the Title IX Coordinator or Deputy Coordinator must be notified of the complaint no later than 24 hours, or as soon as possible after the complaint is made.
- (6) The Title IX Coordinator is responsible for conducting or overseeing a timely and thorough investigation of a complaint of sexual harassment. One or more other College employees or outside parties may be assigned to assist with and/or conduct the investigation.
- (7) The investigation must include a meeting with the complainant, and discussions with any witnesses to the incident. The investigator will also meet with the respondent to discuss the incident, and provide

him/her with an opportunity to respond. No questioning regarding the complainant's prior sexual conduct with anyone other than the respondent will be allowed.

- (8) To determine whether a particular act or course of conduct constitutes sexual harassment under this policy, the alleged behavior will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of harassment, a serious incident, even if isolated, may be sufficient.
- (9) The proper exercise of academic freedom by a faculty member is not restricted by the College's prohibition against harassment. However, conduct that would otherwise constitute a violation of this policy will not be exempt from review, discipline, or other action merely because it occurs in a classroom or other academic setting.
- (10) The investigator will prepare a written report and complete record of all relevant issues, findings, and evidence. If the investigator is someone other than the Title IX Coordinator or Deputy Coordinator, this report and record shall be forwarded to the Title IX Coordinator.
- (11) At the conclusion of the investigation, and where applicable, upon receipt of the written report and record from another investigator, the Title IX Coordinator will determine whether there is sufficient evidence to conclude that sexual harassment occurred. In order for the investigator to determine that sexual harassment occurred, the determination must be supported by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not to have occurred. The Title IX Coordinator will prepare a written report of the determination.
- (12) When sexual harassment is determined to have occurred, steps will be taken to ensure that the behavior is stopped promptly, the effects, if any, are remedied, and that reoccurrence is prevented, whenever possible. Appropriate corrective action for the Respondent includes but is not limited to a requirement that he or she obtain counseling or complete other restorative activities, or written reprimand, suspension, or other disciplinary action up to and including termination or expulsion. Corrective action against the Respondent will be carried out in accordance with applicable College policies, handbooks, code of conduct, or contract. A complainant will be informed of the corrective action and/or discipline taken against the Respondent. The College's disciplinary response may be limited if the Respondent is not a student or employee or otherwise subject to the College's jurisdiction or control.
- (13) A complainant may have rights under other College policies or handbooks, to participate in a disciplinary hearing and/or appeal involving a respondent who has been determined to have engaged in sexual harassment. The Title IX Coordinator will inform the complainant of any such rights.
- (14) If a complainant is dissatisfied with a determination by the Title IX Coordinator that sexual harassment has not occurred, or-- If a complainant is dissatisfied with the corrective action or discipline imposed on a respondent who was determined by the Title IX Coordinator to have engaged in sexual harassment, and the complainant does not have the right to participate in a disciplinary hearing and/or appeal involving the respondent, the following process applies:

The complainant may utilize the appropriate rights noted in the Student of Conduct (for students) or the Conflict Resolution policy (for employees).

The College must offer both parties an appeal from a determination regarding responsibility and from dismissal of a formal complaint on the following grounds:

- Procedural irregularity that affected the outcome
- Newly discovered evidence that could affect the outcome
- Title IX personnel had a conflict or bias that affected the outcome of the matter

In all appeals, the institution must notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The institution must also give both parties a reasonable, equal opportunity to submit written statement in support of, or challenging the outcome, issue a written decision describing the result of the appeal and rationale for the result. The appeal decision-maker cannot be the same person as the decision maker or investigator that reached the determination that is being appealed.

Prevention, Education, and Training

The College recognizes that the most effective way to achieve a campus free of sexual harassment is to equip all College community members with the skills to recognize and prevent sexual harassment. The College wants to ensure that all members of the College community understand and participate in shared standards of equity, inclusion, civility, and respect.

In order to achieve these goals, the College offers regular programs of prevention and ongoing education and awareness for all students and employees. Employees who play a key role in implementing the policy, including those employees who are likely to receive reports of sexual harassment, discrimination, and violence, including sexual violence, stalking, and domestic violence, receive more in-depth annual training to ensure a timely, sensitive, respectful, and effective intuitional response.

The College is committed to ensuring that all employees understand how to respond to reports of sexual harassment. All new students and all new employees will be provided with education in prevention and awareness of sexual harassment.

The education programs will include:

- a) A statement that the College prohibits sexual harassment.
- b) The definition of sexual harassment under College policy and federal and state law;
- c) The definition of consent in reference to sexual activity under College policy and state law;
- d) A description of safe and positive options for bystander intervention;
- e) Information on risk reduction;
- f) Information on how to recognize warning signs of abusive behavior in order to mitigate the likelihood of preparation, victimization, or bystander inaction;
- g) Options and resources for reporting sexual harassment.

All students and employees will receive regular opportunities to review this information, become acquainted with new policies and best practices, and practice key skills.

Training and education may be provided by appropriately trained campus personnel and/or external parties.

The Title IX Coordinator is responsible for oversight, coordination, and assessment of prevention and training programs on campus, in collaboration with the appropriate departments and personnel. The Title IX Coordinator will review education and prevention programs on an annual basis to ensure quality and address staffing and resource needs.

Forms, references, counseling and support

(1) Forms

The sexual harassment complaint form is available upon request from the College's Title IX Coordinator or Deputy Coordinator or on the College's web site at www.zanestate.edu/TitleIX.html

(2) References

- a) Sections 2921.22 and 4112.02 of the Revised Code.
- b) Zane State College's Student Code of Conduct
- c) Zane State College's Full- and Part-Time Employee Handbook.

(3) Resources, counseling and support

- a) Contact information for resources and support, is available on the College's web site at www.zanestate.edu/TitleIX.html
- b) It is important to know that victims have the option to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services. For contact information regarding off-campus health care options, contact those noted in F(1) above.

Filing Complaint with External Agency

Persons who believe they have been subjected to sexual harassment may be able to file a complaint with the Ohio Civil Rights Commission, the U.S. Equal Employment Opportunity Commission or the U.S. Department of Education's Office for Civil Rights.

Information regarding filing charges with any of these agencies may be obtained from the agency directly or from the College Title IX Coordinator.

C. POLICY HISTORY

- **For additional information, please refer to prior versions of the College Handbook.**
- **Policy revisions approved by Board of Trustees May 2017**
- **Policy revisions approved by Board of Trustees May 2021**

D. INITIATING DIVISION

The Office of Human Resources

E. POLICY REVIEWERS

The Office of Human Resources; Title IX Compliance
Committee Human Resource Advisory Council

F. POLICY REFERENCES

- a. *Title IX Complaint Form*
- b. *ORC 3357-12-3-16*
- c. *300.28*

G. POLICY APPROVAL

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| <input type="checkbox"/> | To be approved by President's Cabinet only |
| <input checked="" type="checkbox"/> | To be approved by President's Cabinet and the Board of Trustees |
| <input checked="" type="checkbox"/> | To be sent to the State of Ohio's Electronic Rules Filing (ERF) system |