



**YOUNGSTOWN
STATE
UNIVERSITY**

**BOARD OF TRUSTEES
UNIVERSITY AFFAIRS COMMITTEE
Charles T. George, Chair
Capri S. Cafaro, Vice Chair
All Trustees are Members**

**Wednesday, June 2, 2021
3:30 p.m. or immediately following
previous meeting**

**Kilcawley Center
Chestnut Room**

AGENDA

- A. Disposition of Minutes for Meeting Held March 3, 2021**
- B. Old Business**
- C. Committee Items**

1. Intercollegiate Athletics Action Item

C.1.a. = Tab 1

a. Resolution to Ratify Personnel Actions

University policies require that the Chief Human Resources Officer provide a summary of appointments, promotions, and other personnel actions for intercollegiate athletics staff and coaching positions, for January 16, 2021, through April 15, 2021. Personnel actions for intercollegiate athletics staff and coaching are contingent upon approval of the Board of Trustees.

Ron Strollo, Executive Director of Athletics, will report.

2. Intercollegiate Athletics Discussion Item

C.2.a. = Tab 2

a. NCAA Rules Compliance Education

Emily Wollet, Associate Director of Athletics, will report.

3. University Affairs Consent Items*

C.3.a. = Tab 3

a. Resolution to Modify Development and Issuance of University Policies Policy, 3356-1-09

C.3.b. = Tab 4

b. Resolution to Modify Discrimination/Harassment Policy, 3356-2-03

*Items listed under the Consent Agenda require Board approval; however they may be presented without discussion as these items include only non-substantive changes.

C.3.c. = Tab 5 c. Resolution to Modify Title IX Sexual Harassment Policy, 3356-2-05

C.3.d. = Tab 6 d. Resolution to Modify Sensitive Information/Information Security Policy, 3356-4-13

4. University Affairs Action Items

C.4.a. = Tab 7 a. Resolution to Modify and Retitle Supplemental Pay from Externally Funded Grants, Sponsored Programs and Contracts for Faculty and Professional/Administrative Staff Policy, 3356-7-48
Brien N. Smith, Provost and Vice President for Academic Affairs, and Sev Van slambrouck, Director of Research Services, will report.

C.4.b. = Tab 8 b. Resolution to Authorize Conferral of Emeritus Status for Faculty and Administrators
This resolution nominates seven (7) recently-retired faculty members for Faculty Emeritus Status, and nominates five (5) recently-retired administrators for Administrator Emeritus Status in accordance with the University policy for Emeritus Status, Policy Number 3356-7-17.
Cindy Kravitz, Associate Vice President and Chief Human Resources Officer, will report.

C.4.c. = Tab 9 c. Resolution to Ratify Personnel Actions
University policies require that the Chief Human Resources Officer provide a summary of appointments, promotions, and other personnel actions for faculty and professional/administrative staff, for January 16, 2021, through April 15, 2021. Personnel actions for faculty and professional/administrative staff are contingent upon approval of the Board of Trustees.
Cynthia Kravitz, Associate Vice President and Chief Human Resources Officer, will report.

5. University Affairs Discussion Item

a. Litigation, Personnel and Collective Bargaining Update
Holly Jacobs, Vice President for Legal Affairs and Human Resources, will provide a summary of current litigation and personnel matters, as well as a collective bargaining update.

D. New Business

E. Adjournment



**RESOLUTION TO RATIFY
PERSONNEL ACTIONS**

WHEREAS, the *Policies of the Board of Trustees* authorize the President to manage the University, including appointing such employees as are necessary to effectively carry out the operation of the University and any other necessary personnel actions; and

WHEREAS, new appointments and other personnel actions have been made subsequent to the March 4, 2021, meeting of the Board of Trustees; and

WHEREAS, such personnel actions are in accordance with the 2020-2021 Budget and with University policies 3356-2-02, Equal Opportunity and Affirmative Action Recruitment and Employment; 3356-7-36, Hiring and Selection Process, Contracts and Compensation for Intercollegiate Athletic Coaches; 3356-9-02, Selection and Annual Evaluation of Administrative Officers of the University; and 3356-7-42, Selection of Professional/Administrative Staff;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University does hereby ratify and confirm the personnel actions as listed in Exhibit ___ attached hereto.

SUMMARY OF PERSONNEL ACTIONS
Athletics Employees
1/16/21 through 4/15/21

Separations – 1

- Professional Administrative Externally Funded – 1

YOUNGSTOWN STATE UNIVERSITY
ATHLETICS EMPLOYEES
PERSONNEL ACTIONS 1/16/21 THROUGH 4/15/21
SEPARATIONS

EMPLOYEE NAME	EMPLOYEE TYPE	POSITION TITLE	DEPARTMENT	DATE OF SEPARATON	FTE	SALARY	TYPE OF SEPARATION
Froehlich, Rachel	Externally Funded	Program Manager	Athletic Administration	3/3/2021	1.00	\$ 40,800.00	Resignation

WINNING WITH INTEGRITY

It is the responsibility of each institution to control its intercollegiate athletics program in compliance with the rules and regulations of the NCAA. This includes responsibility for the actions of its staff members, athletes, and for any other individual or organization engaged in activities promoting the athletic interests of Youngstown State.



“ASK BEFORE YOU ACT”

If you have any questions regarding any NCAA or institutional rules, please contact:
Emily Wollet
Associate Director of Athletics
EMAIL: ewollet@ysu.edu
PHONE: 330-941-7208

YSU FIGHT SONG

The Red and White are waving
Over the field
Our teams are fighting
With a spirit that will not yield
Rah-Rah-Rah
Hail to thee O'Youngstown
We'll fight for you
Once again the Penguins
Will win for YSU

YSU ALMA MATER

All hail to thee O'Youngstown,
Our Alma Mater fair;
In sunlight and starshine
We see thee in all thy glory.
The Red and White, thy glorious colors,
Ever we praise and hold them
High to the breeze as the symbol of our
Most loyal allegiance.
This anthem, O'Youngstown,
Our pledge of trust shall be
That thy sons and daughters
Shall keep faith with thee forever

YOUNGSTOWN STATE



A QUICK GUIDE TO NCAA RULES FOR BOOSTERS, STAFF, AND FRIENDS OF PENGUINS ATHLETICS



This pamphlet is designed to assist supporters of Penguins Athletics with basic NCAA rules education.

There are three points of emphasis:

- Definitions
- Role of Boosters
- Extra Benefits

DEFINITIONS

WHO IS A BOOSTER?

You are a booster if you:

- Are a member of the Penguin Club;
- Ever made a financial contribution to the Athletics Department or Penguin Club
- Have been a season-ticket holder;
- Provide jobs for student-athletes;
- Promote the YSU athletics program;
- Are a former student-athlete;
- Are a YSU Board of Trustee; or
- Are the parents or guardians of an enrolled student-athlete.

Once an individual has been identified as a booster, he or she retains this identity indefinitely.

WHO IS A PROSPECT?

Commonly referred to as a “recruit”, a prospect is any student who has entered the ninth grade, except for Men’s Basketball and Softball, where it is any student who has entered the seventh grade. A prospect remains a prospect until he/she enrolls at a member institution.

WHAT IS AN “EXTRA BENEFIT”?

An extra benefit is any special arrangement by an employee of YSU or booster to provide a prospect, student-athlete or their relatives a benefit not approved by the NCAA.

ROLE OF THE BOOSTER

Recruiting

A booster is not permitted to have any in-person contact with a prospect or the prospect’s parents, legal guardians or relatives on or off campus at any site (unless you are an employee of YSU who would meet with prospects in-person, on-campus as a regular part of his/her job, i.e. faculty).

A booster is not permitted to be directed by a staff member to attend games/events in order to evaluate prospects. A booster may alert a staff member of a potential prospect, but cannot be directed to do so.

A booster is not permitted to telephone a prospect or the prospect’s parents or legal guardians. If a prospect telephones a booster, the booster should refer any questions about the athletics program to the athletics department staff.

A booster can employ a prospect who has signed a National Letter of Intent to attend YSU, but employment cannot commence any earlier than the summer prior to full-time enrollment at YSU.

A booster cannot utilize social media to comment on or encourage the enrollment of any prospect.

EXTRA BENEFITS

A student-athlete or prospect or their family and/or friends cannot receive any extra benefits. Receipt by an athlete of an impermissible benefit will render the athlete ineligible for competition.

Examples of impermissible benefits include, but are not limited to, the following:

- Cash or any type of gift
- Loans or co-signing of loans
- Vehicle or use of vehicle
- Arrangement for transportation
- Special discounts, reduced or free meals, goods or services
- Employment of relatives
- Providing transportation for a summer job
- Free or reduced housing cost
- Concert or sporting event tickets

The following are permissible activities:

- Providing an occasional meal at the home of a booster or on campus with prior approval
- Employing student-athletes under the following conditions:
 - 1) Compensation is only for work actually performed;
 - 2) Compensation must be at the going rate for the job performed; and
 - 3) Cannot be compensated for value the student-athlete may have because of his/her athletic ability or reputation.



**RESOLUTION TO MODIFY
DEVELOPMENT AND ISSUANCE OF UNIVERSITY POLICIES POLICY,
3356-1-09**

WHEREAS, University Policies are reviewed and reconceptualized on an ongoing basis; and

WHEREAS, this process can result in the modification of existing policies, the creation of new policies, or the deletion of policies no longer needed; and

WHEREAS, action is required by the Board of Trustees prior to replacing and/or implementing modified or newly created policies, or to rescind existing policies; and

WHEREAS, the Development and Issuance of University Policies policy has been reviewed pursuant to the five-year review cycle, and formatted in accordance with Policy 3356-1-09, Development and Issuance of University Policies.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University does hereby approve the modification of the University Policy Development and Issuance of University Policies, policy number 3356-1-09, shown as Exhibit __ attached hereto. A copy of the policy indicating changes to be made is also attached.

3356-1-09 Development and issuance of university policies.

~~Previous Policy Number: 0001.00~~
Responsible Division/Office: Office of Equal Opportunity ~~and~~ Policy
~~Compliance~~ Development
Responsible Officer: General Counsel
Revision History: June 1997; March 2007; March 2011;
December 2014; June 2021
Board Committee: University Affairs
Effective Date: ~~December 16, 2014~~ June 3, 2021
Next Review: ~~2019~~ 2026

- (A) Policy statement. All university policies and rules fall within a greater hierarchy of laws, statutes and regulations. The Youngstown state university board of trustees has been authorized by the Ohio legislature to do all things necessary for the creation, proper maintenance, and successful continuous operation of the university (section 3356.03 of the Revised Code). As may be appropriate, the board of trustees exercises its governance authority through the issuance of university policies. All university policies shall be developed, approved, and published in accordance with the standards and format set forth in this policy and as required by the Ohio legislative service commission (“LSC”).
- (B) Purpose. To provide a procedure for the development and enactment of university policies in order to maintain accountability and consistency.
- (C) This policy applies to all university divisions, colleges, departments, sections, units, or any other categories within the university and to all individuals within these categories seeking to develop, enact, revise, or review university policies.
- (D) Definitions.
- (1) “University policy” – a written directive or governing principle that is formally approved by the board of trustees, which has broad application throughout the university. Policies connect the university’s goals and mission to individual conduct, fiscal responsibility, and institutional expectations, and support compliance with laws and regulations.

- (2) “Policy statement” – a concise statement of principles, values, and/or intent that provide context for the policy.
- (3) “Purpose” – a brief explanation of why the policy is needed.
- (4) “Procedure” – the operational processes required to implement a policy including any required training. A procedure may be included in the policy or an administrative unit or officer may be charged with developing procedures to implement the policy.
- (5) “Guidelines” – statements which are necessary to clarify and explain the policy (also known as parameters).
- (6) “Scope” – defines what entities or individuals are covered by a policy.
- (7) “Responsible division or office” – the university unit charged with the development and administration of a policy and its procedures.
- (8) “Responsible officer” – the ~~highest ranking~~ highest-ranking university officer charged with administrative responsibility for a policy that falls within his/her administrative unit, typically a divisional vice president or chief officer.
- (9) “Board committee” – the committee of the board of trustees with purview over those matters of university operations which are the subject matter of the policy.
- (10) “Non-significant policy changes” - amendments or corrections to a policy designed to improve the clarity or address errors or omissions of information such as changes to reflect institutional organizational changes, website links, paragraph and outline numbering, and references to new related laws, regulations, rules, executive orders, collective bargaining agreement language, and other policies and procedures.

(E) Procedure.

- (1) A new university policy or a proposed revision or rescission of an existing policy may be initiated by the ~~individual accountable for any department or unit, such as a chairperson, director, executive~~

~~director, senates, councils, and committees~~ division, office or officer that has responsibility for the policy (hereinafter, the “policy initiator”).

- (2) The formal submission of a policy to the board of trustees shall originate from the president, a divisional vice president or senior executive, or the board of trustees. However, an appropriate designee may be named to manage the policy through the development, submission, and issuance process.
- (3) Each divisional vice president or senior executive is responsible for ensuring that all existing policies assigned to ~~his/her~~their division are reviewed on a five-year cycle. A policy may be reviewed or rescinded or a new policy proposed at any time in response to university needs or statutory requirements.
- (4) Proposed revisions to existing policies shall be clearly identified and contrasted with existing language.
- (5) ~~A draft copy of the policy shall first be forwarded to the president, general counsel, the divisional vice presidents, and the responsible officer~~^[CAK1] ~~for timely review and feedback. These individuals~~Policy initiators may ~~also~~ forward the draft policy to their administrative units for timely review and comment. Comments are to be returned to the policy initiator.
- (6) The ~~president~~policy initiator may utilize any appropriate council, committee, or forum to obtain campus-wide perspective or input.
- ~~(7)~~ Divisional vice-presidents shall review a -draft copy of the policy or a policy proposed for revision with the president for timely review and feedback prior to submission to the board of trustees.
- ~~(7)~~(8) During the review process, the policy initiator may incorporate relevant modifications which are consistent with existing policies and applicable regulations. If the policy is further modified, a draft will again be circulated to the president, ~~general counsel, and divisional vice presidents~~ for final review.

- ~~(8)~~(9) Prior to submission to the board of trustees, the policy shall be presented to the appropriate board committee for review and comment.
- ~~(9)~~(10) At the conclusion of the review process and prior to submission to the board of trustees for approval, the policy initiator shall incorporate those proposed revisions which are relevant, reasonable, and consistent with existing policies and applicable regulations.
- ~~(10)~~(11) The responsible officer or ~~his/her~~their designee shall submit the final draft to the board of trustees for approval.
- ~~(11)~~(12) The university office ~~of equal opportunity and responsible for policy compliance or the office with current responsibility for university policies~~development shall monitor and assist the appropriate responsible officer or designee and/or the policy initiator through the development, submission, and issuance process.
- ~~(12)~~(13) Following approval by the board of trustees, the policy will be filed with the legislative service commission and posted on the university webpage designated for university policies and rules (see paragraph H of this policy).

(F) Policy format.

- (1) Policies shall be written, numbered, and submitted for LSC filing in accordance with LSC requirements.
- (2) All policies shall be submitted for internal review and posting in LSC format and with a header containing the following information:
 - (i) Responsible division/office;
 - (ii) Responsible officer;
 - (iii) Revision history;

- (iv) Board committee;
 - (v) Effective date; and
 - (vi) Next review.
- (3) The body of the policy shall conform to the following order and requirements:
- (i) Policy statement (required section);
 - (ii) Purpose (required section unless self-evident from the policy title or statement);
 - (iii) Scope (required section unless self-evident from the policy title or statement);
 - (iv) Procedure (required; however, when an administrative unit/officer is charged with the development of procedures, then this assignment shall be noted);
 - (v) Sections or information necessary to ensure comprehension of and compliance with the policy, such as definitions, guidelines, sanctions, reference to applicable regulations and/or university policies.
- (G) Policy numbering system.
- (1) -All Youngstown state university policies are numbered and begin with 3356, which denotes the Revised Code chapter by which the Ohio legislature created the university and the LSC agency number assigned to the university for filing purposes. The agency number (3356) is followed by two numbers, which designate, respectively, the area of administrative responsibility within the university (also known as the LSC chapter number) and the specific policy number. A policy which serves to supplement an original policy shall be assigned the number of the original policy followed by a period (.) and an additional digit (e.g., a supplemental policy to policy 01 would be numbered 01.1).

- (2) For purposes of this policy, the areas of administrative responsibility are assigned the following numbers:
- (a) Governance (includes bylaws of the board of trustees and process-oriented elements of governing, such as drafting and numbering of university policies) – 01.
 - (b) Equal opportunity ~~and diversity~~ – 02.
 - (c) Budget and finance – 03.
 - (d) Facilities – 04.
 - (e) Advancement – 05.
 - (f) Intercollegiate ~~athletic~~athletics – 06.
 - (g) Human resources – 07.
 - (h) Student affairs – 08.
 - (g) Administration and personnel – 09.
 - (h) Academic affairs – 10.
- (H) Posting/publication.
- ~~(1)~~ — The latest version of all university policies shall be posted on a university webpage designated for university policies and rules and shall be listed by policy number, administrative responsibility, and alphabetically by title. The office ~~of equal opportunity and~~ responsible for policy ~~compliance, or the current equivalent office,~~ development shall oversee and maintain the official university policy and rule webpage.
- ~~(2)~~ — ~~For one year from the effective date of this policy, current and revised university policies shall be cross-referenced with the~~

~~previous internal policy number. New policies shall be numbered pursuant to this policy.~~

(I) Conflicts.

- (1) In the event of a conflict between a university policy and a school or departmental administrative or operational policy or rule, the university policy shall take precedence unless the school or department can demonstrate an overriding need for its policy and the use of the conflicting policy is approved by the president. The school or department shall notify the office of equal opportunity ~~and policy compliance~~ and policy development of the conflict and the office of equal opportunity ~~and policy compliance~~ and policy development shall take necessary action to correct the conflict where possible.

3356-1-09 Development and issuance of university policies.

Responsible Division/Office: Office of Equal Opportunity and Policy
Development
Responsible Officer: General Counsel
Revision History: June 1997; March 2007; March 2011;
December 2014; June 2021
Board Committee: University Affairs
Effective Date: June 3, 2021
Next Review: 2026

- (A) Policy statement. All university policies and rules fall within a greater hierarchy of laws, statutes and regulations. The Youngstown state university board of trustees has been authorized by the Ohio legislature to do all things necessary for the creation, proper maintenance, and successful continuous operation of the university (section 3356.03 of the Revised Code). As may be appropriate, the board of trustees exercises its governance authority through the issuance of university policies. All university policies shall be developed, approved, and published in accordance with the standards and format set forth in this policy and as required by the Ohio legislative service commission (“LSC”).
- (B) Purpose. To provide a procedure for the development and enactment of university policies in order to maintain accountability and consistency.
- (C) This policy applies to all university divisions, colleges, departments, sections, units, or any other categories within the university and to all individuals within these categories seeking to develop, enact, revise, or review university policies.
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- (1) “University policy” – a written directive or governing principle that is formally approved by the board of trustees, which has broad application throughout the university. Policies connect the university’s goals and mission to individual conduct, fiscal responsibility, and institutional expectations, and support compliance with laws and regulations.

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 - (5) “Guidelines” – statements which are necessary to clarify and explain the policy (also known as parameters).
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 - (8) “Responsible officer” – the highest-ranking university officer charged with administrative responsibility for a policy that falls within his/her administrative unit, typically a divisional vice president or chief officer.
 - (9) “Board committee” – the committee of the board of trustees with purview over those matters of university operations which are the subject matter of the policy.
 - (10) “Non-significant policy changes” - amendments or corrections to a policy designed to improve the clarity or address errors or omissions of information such as changes to reflect institutional organizational changes, website links, paragraph and outline numbering, and references to new related laws, regulations, rules, executive orders, collective bargaining agreement language, and other policies and procedures.
- (E) Procedure.
- (1) A new university policy or a proposed revision or rescission of an existing policy may be initiated by the division, office or officer

that has responsibility for the policy. (hereinafter, the “policy initiator”).

- (2) The formal submission of a policy to the board of trustees shall originate from the president, a divisional vice president or senior executive, or the board of trustees. However, an appropriate designee may be named to manage the policy through the development, submission, and issuance process.
- (3) Each divisional vice president or senior executive is responsible for ensuring that all existing policies assigned to their division are reviewed on a five-year cycle. A policy may be reviewed or rescinded or a new policy proposed at any time in response to university needs or statutory requirements.
- (4) Proposed revisions to existing policies shall be clearly identified and contrasted with existing language.
- (5) Policy initiators may forward the draft policy to their administrative units for timely review and comment. Comments are to be returned to the policy initiator.
- (6) The policy initiator may utilize any appropriate council, committee, or forum to obtain campus-wide perspective or input.
- (7) Divisional vice-presidents shall review a draft copy of the policy or a policy proposed for revision with the president for timely review and feedback prior to submission to the board of trustees.
- (8) During the review process, the policy initiator may incorporate relevant modifications which are consistent with existing policies and applicable regulations. If the policy is further modified, a draft will again be circulated to the president for final review.
- (9) Prior to submission to the board of trustees, the policy shall be presented to the appropriate board committee for review and comment.
- (10) At the conclusion of the review process and prior to submission to the board of trustees for approval, the policy initiator shall incorporate those proposed revisions which are relevant,

reasonable, and consistent with existing policies and applicable regulations.

- (11) The responsible officer or their designee shall submit the final draft to the board of trustees for approval.
 - (12) The university office responsible for policy development shall monitor and assist the appropriate responsible officer or designee and/or the policy initiator through the development, submission, and issuance process.
 - (13) Following approval by the board of trustees, the policy will be filed with the legislative service commission and posted on the university webpage designated for university policies and rules (see paragraph H of this policy).
- (F) Policy format.
- (1) Policies shall be written, numbered, and submitted for LSC filing in accordance with LSC requirements.
 - (2) All policies shall be submitted for internal review and posting in LSC format and with a header containing the following information:
 - (i) Responsible division/office;
 - (ii) Responsible officer;
 - (iii) Revision history;
 - (iv) Board committee;
 - (v) Effective date; and
 - (vi) Next review.
 - (3) The body of the policy shall conform to the following order and requirements:

- (i) Policy statement (required section);
 - (ii) Purpose (required section unless self-evident from the policy title or statement);
 - (iii) Scope (required section unless self-evident from the policy title or statement);
 - (iv) Procedure (required; however, when an administrative unit/officer is charged with the development of procedures, then this assignment shall be noted);
 - (v) Sections or information necessary to ensure comprehension of and compliance with the policy, such as definitions, guidelines, sanctions, reference to applicable regulations and/or university policies.
- (G) Policy numbering system.
- (1) All Youngstown state university policies are numbered and begin with 3356, which denotes the Revised Code chapter by which the Ohio legislature created the university and the LSC agency number assigned to the university for filing purposes. The agency number (3356) is followed by two numbers, which designate, respectively, the area of administrative responsibility within the university (also known as the LSC chapter number) and the specific policy number. A policy which serves to supplement an original policy shall be assigned the number of the original policy followed by a period (.) and an additional digit (e.g., a supplemental policy to policy 01 would be numbered 01.1).
 - (2) For purposes of this policy, the areas of administrative responsibility are assigned the following numbers:
 - (a) Governance (includes bylaws of the board of trustees and process-oriented elements of governing, such as drafting and numbering of university policies) – 01.
 - (b) Equal opportunity – 02.

- (c) Budget and finance – 03.
 - (d) Facilities – 04.
 - (e) Advancement – 05.
 - (f) Intercollegiate athletics – 06.
 - (g) Human resources – 07.
 - (h) Student affairs – 08.
 - (g) Administration and personnel – 09.
 - (h) Academic affairs – 10.
- (H) Posting/publication. The latest version of all university policies shall be posted on a university webpage designated for university policies and rules and shall be listed by policy number, administrative responsibility, and alphabetically by title. The office responsible for policy development shall oversee and maintain the official university policy and rule webpage.
- (I) Conflicts.
- (1) In the event of a conflict between a university policy and a school or departmental administrative or operational policy or rule, the university policy shall take precedence unless the school or department can demonstrate an overriding need for its policy and the use of the conflicting policy is approved by the president. The school or department shall notify the office of equal opportunity and policy development of the conflict and the office of equal opportunity and policy development shall take necessary action to correct the conflict where possible.



**RESOLUTION TO MODIFY
DISCRIMINATION/HARASSMENT POLICY, 3356-2-03**

WHEREAS, University Policies are reviewed and reconceptualized on an ongoing basis; and

WHEREAS, this process can result in the modification of existing policies, the creation of new policies, or the deletion of policies no longer needed; and

WHEREAS, action is required by the Board of Trustees prior to replacing and/or implementing modified or newly created policies, or to rescind existing policies; and

WHEREAS, the Discrimination/Harassment policy has been reviewed pursuant to the five-year review cycle, and formatted in accordance with Policy 3356-1-09, Development and Issuance of University Policies.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University does hereby approve the modification of the University Policy Discrimination/Harassment, policy number 3356-2-03, shown as Exhibit __ attached hereto. A copy of the policy indicating changes to be made is also attached.

**Board of Trustees Meeting
June 3, 2021
YR 2021-**

3356-2-03 Discrimination/harassment.

Responsible Division/Office: Equal Opportunity, Policy Development, and Title IX
Responsible Officer: Director for Equal Opportunity, Policy Development, and Title IX
Revision History: June 2009; June 2015; September 2016; September 2019; September 2020; [June 2021](#)
Board Committee: University Affairs
Effective Date: ~~September 3, 2020~~ [June 3, 2021](#)
Next Review: ~~2025~~ [2026](#)

(A) Policy statement. Youngstown state university (“university”) does not discriminate on the basis of race, color, national origin, age, sexual orientation, gender identity and/or expression, disability, or veteran status or any other basis protected by law in its programs or activities. The university is firmly committed to maintaining a working and learning environment free of discrimination and harassment of any employee, applicant for employment, student, or visitor. The university community seeks to eliminate discrimination and harassment through education and encourages staff, faculty, students, visitors, and volunteers to report concerns or complaints. Prompt corrective measures will be taken to stop discrimination and harassment whenever it occurs.

This policy shall be interpreted and applied consistent with the speech protections of the first amendment of the United States Constitution.

(B) Purpose. The purpose of this policy is to establish expectations for institutional and individual conduct, aid the university community in recognizing and preventing discrimination and harassment, and provide effective reporting and response mechanisms. For purposes of this policy, the university community includes, but is not limited to, all university employees, students, and any other individual visiting or engaging in any university activity or program.

(C) Scope. This policy applies to students, faculty, employees (including student employees), third parties, campus visitors, or other individuals engaged in any university activity or program, regardless of sexual orientation or gender identity, and whether on or off campus. The prohibitions of this policy may, in some instances, be broader in scope than the legal prohibitions of state, federal, or other laws prohibiting discrimination or harassment. A determination that this policy has been violated is not equivalent to a violation of law.

- (D) Definitions. For the purpose of determining whether a particular behavior or course of conduct constitutes discrimination or harassment under this policy, the following definitions shall be used:
- (1) “Discrimination.” Conduct that is based on an individual’s sex (including pregnancy), race, color, religion, national origin, age, sexual orientation, gender identity and/or expression, disability, or veteran/military status or any other basis protected by law that:
 - (a) Adversely affects a term or condition of an individual’s employment, education, or participation in a university activity or program; or
 - (b) Is used as the basis for a decision affecting an individual’s employment, education, or participation in a university activity or program; or
 - (c) Is sufficiently severe or pervasive to a reasonable person that it substantially interferes with an individual’s employment or educational performance or create a working, living, or educational environment that is intimidating, hostile, or abusive.
 - (2) “Harassment.” Conduct, or a course of conduct, that degrades or shows hostility toward an individual or group of individuals and is based on sex (including pregnancy), race, color, religion, national origin, age, sexual orientation, gender identity and/or expression, disability, or veteran status or any other basis protected by law, and is sufficiently severe or pervasive to a reasonable person that it:
 - (a) Unreasonably interferes with an individual’s employment or education; or
 - (b) Objectively creates a working, living, or educational environment that is hostile, intimidating, or abusive.
 - (3) “Sexual harassment.” Sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that is unwelcome and sufficiently severe or pervasive from both a subjective (the complainant’s) and an objective (reasonable person’s) viewpoint when it meets any of the following:
 - (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, academic status, or participation in a university program or activity.

- (b) Submission to or rejection of such conduct by an individual is used as the basis for employment, academic, or programing decisions affecting the individual.
- (c) The conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an employment, academic, or participation environment that is objectively intimidating, hostile, or abusive.
- (d) Sexual harassment can be directed at a member of the same or different sex or sexual orientation. Examples of inappropriate conduct which may constitute sexual harassment include but are not limited to:
 - (i) Sexual advances or propositions, either explicit or implied.
 - (ii) Sexually suggestive or sexually degrading innuendo, comments or gestures.
 - (iii) Remarks or inquiries about sexual activity, sexual orientation, or gender identity or expression.
 - (iv) The display or communication of sexually oriented material (including through e-mail or other electronic means).
 - (v) Unwanted touching, hugging, or contacting another's body.
- (e) "Sexual harassment," as defined in Title IX of the Education Amendments of 1972, is set forth in the university Title IX sexual harassment policy. (See rule 3356-02-05 of the Administrative Code, university policy "Title IX sexual harassment policy." Students, faculty employees, volunteers, third parties, campus visitors or other individuals should refer to the Title IX policy referred to above for processes and procedures under Title IX.)

(4) [Speech or conduct protected by the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution is not harassment for purposes of this policy. \(See university policy 3356-4-21 Campus free speech.\)](#)

~~(4)~~(5) Intimidating, hostile, or abusive environment (collectively referred to as a hostile environment) is a specific form of discrimination and is often

contextual and must be based on the circumstances. These circumstances include but are not limited to:

- (a) The frequency of the conduct.
 - (b) The nature and severity of the conduct.
 - (c) The relationship between the complainant and the respondent.
 - (d) The location and context in which the alleged conduct occurs.
 - (e) Whether the conduct was physically threatening.
 - (f) Whether the conduct was humiliating.
 - (g) Whether the conduct arose in the context of other discriminatory conduct.
- (E) No supervisor (including a faculty supervisor), manager, or official representative of the university shall directly or indirectly imply or threaten that an applicant, employee, or student's submission to or refusal of sexual advances will positively or negatively affect his or her employment, employment conditions, career development, or academic status. This prohibition includes, but is not limited to, instructors, faculty members, graduate assistants and teaching assistants.
- (F) Employee-student consensual relationships. Relationships that might be appropriate in other contexts may, within a university setting, create the appearance or basis for an abuse of power, conflict of interest, favoritism, or of undue advantage. Many university employees are entrusted with advising and mentoring students, evaluating their work, and recommending students for advancement in employment, programs or academia. The unequal institutional power which is inherent in such a relationship heightens the vulnerability of both the student and employee for possible abuse or coercion and can present real or perceived conflict.
- (1) For purposes of this policy, a consensual intimate or sexual relationship is a relationship of an intimate, dating, and/or sexual nature entered into with the consent of both parties (hereinafter referred to as a relationship for purposes of this policy).
 - (2) This policy applies to employees and individuals, whether paid or unpaid, who teach, coach, evaluate, supervise, advise, control, or influence student

employment, academic, or resource opportunities. These individuals include but are not limited to:

- (a) Faculty, lecturers, and instructors (including visiting faculty/instructors),
 - (b) Graduate students,
 - (c) Teaching assistants,
 - (d) Academic advisors,
 - (e) Coaches,
 - (f) Residence hall professional staff.
- (3) Intimate relationships with students. Because of the elevated risk and the potential exposure of the university and employees to liability for violation of laws against sexual harassment and discrimination and in order to maintain an environment as free as possible from conflicts of interest and favoritism, no employee/individual as defined in this rule shall enter into a relationship with a Youngstown state university student, including but not limited to undergraduate, graduate, part-time, or full-time, regardless of whether or not there is a direct supervisory or evaluative relationship between them. Should a relationship predate either admission or employment with the university, the individuals involved in the relationship shall inform his/her immediate supervisor and dean and alternate supervisory or academic arrangements shall be made. This prohibition does not apply to married couples; however, rule 3356-7-01 of the Administrative Code regarding conflicts of interest should be consulted. (Corresponding university policy 3356-7-01 can be found on the [“University Policies”](#) webpage.)
- (G) Duty of managers and supervisors to act. Any supervisor, including executive and administrative officers, chairs, executive directors/directors, or faculty supervisor who becomes aware of information that would lead a reasonable person to believe that harassment and/or discrimination has or is occurring shall notify the office of equal opportunity and policy development (“EOPD”) and/or human resources promptly but no later than five working days after becoming aware of the information. The office of human resources shall promptly notify EOPD.
- (H) Complaint procedures.
- (1) The university encourages all persons who believe they have experienced or witnessed discrimination or harassment to promptly file a complaint with

EOPD. A complaint may be formal or informal. However, a complaint alleging a violation of this policy must be filed within three hundred days of the behavior or the last incident at issue. Delays in filing or reporting may make it more difficult for the university to conduct an investigation.

- (2) An individual also has the right to file a complaint with external agencies, including, but not limited to, the Ohio civil rights commission, the equal employment opportunity commission and/or the department of education. Utilizing the university's internal complaint procedure does not extend the deadline for filing a complaint with the external agencies. However, it is recommended that the complainant first exhaust the internal complaint procedures by promptly reporting the complaint.
 - (3) The university may assume the role of a complainant and pursue a complaint either informally or formally when it obtains information that would lead a reasonable person to believe that this policy has been violated. In these instances, the university may take any action it deems appropriate, including informing the alleged perpetrator of the complaint and pursuing an investigation even in cases where an alleged victim of harassment or discrimination is reluctant to proceed. The alleged victim will be notified in advance when such action is necessary.
 - (4) Complaint investigations will follow the procedures set forth in the university's "Guidelines for Initiating and Investigating Complaints of Discrimination and Harassment." These guidelines may be obtained from EOPD.
 - (5) Information related to a report of discrimination and/or harassment will only be shared with those university employees who need to know in order to assist in the review, investigation, or resolution of a complaint. The university will make every reasonable effort to conduct all proceedings in a manner that will protect the privacy of all parties. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.
- (I) Interim measures. During the course of an investigation, it may be necessary and advisable for the university to take appropriate interim measures that are reasonably available to alleviate the conduct which is the basis of a complaint. These interim measures may include, but are not limited to, separating the parties, placing limitations on contact between the parties, or making alternative academic, living or workplace arrangements. Failure to comply with the terms of interim measures is a

- violation of this policy and may result in corrective measures, even if the initial complaint is not proven.
- (J) Non-retaliation. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination or harassment or for assisting or participating in an investigation. Persons who believe they are experiencing retaliation for reporting or participating in an investigation of a complaint are strongly encouraged to contact EOPD. Any person found to have retaliated against another for reporting, participating, or cooperating in an investigation will be in violation of this policy and will be subject to corrective measures and/ or sanctions independent of the merits of the original complaint.
- (K) Corrective measures.
- (1) When it has been determined that discrimination, harassment, or retaliation has occurred, steps will be taken to ensure that the prohibited behavior is stopped. Corrective measures and/or sanctions will be imposed consistent with the severity of the offense, applicable university procedures, and collective bargaining agreements. Corrective measures may include sanctions and/or discipline up to and including termination for employees and expulsion for students. In the event that a record of such sanctions will become a part of an employee's personnel records, prior notice will be given to the employee.
 - (2) Sanctions may also be imposed on any individual with a duty to act under this policy and associated procedures, who fails to respond in a manner consistent with this policy to a complaint or reasonable information of discrimination, harassment, or retaliation.
 - (3) To the extent possible under applicable law and policies, a complainant will be informed of the corrective measures taken.
- (L) False allegations. It is a violation of this policy for anyone to intentionally report information or allegations that they know, or reasonably should know, to be untrue or false. Sanctions may be imposed on individuals who make false accusations of discrimination or harassment. Failure to prove a claim of discrimination or harassment is not equivalent to a false allegation and no person shall be penalized for good faith reporting of concerns under this policy.
- (M) Use of discrimination and harassment allegations in employment actions or academic status decisions. When making decisions affecting an individual's employment or academic status, allegations of discrimination and harassment may be considered only if they have been addressed through this policy or procedure, a court of law, or other administrative proceeding such as a student conduct hearing for a student accused of

- a policy violation. Whenever such an allegation is discussed as part of a determinant in the terms and conditions of an employment or academic status, the affected party should be given notice.
- (N) Policy and procedure administration. The office of equal opportunity and policy compliance is responsible for the administration of this policy and the associated procedures. However, all university employees, staff, and students play a role in preventing and reporting discrimination and harassment.
- (O) Educational goals and objectives.
- (1) It is the goal of the university to prevent and eliminate discrimination and/or harassment and to foster an environment of respect for all individuals. In furtherance of these goals, every employee shall complete programs and/or training as directed by the office of human resources and/or the office of equal opportunity and policy compliance. The office of human resources, in conjunction with the office of equal opportunity and policy compliance, shall provide information, programs, and/or training to meet the following goals:
- (a) Provide information about the university's policies relating to discrimination and harassment and the corresponding procedures and reporting mechanisms.
- (b) Include information regarding this policy in orientation materials for new faculty, staff, students, and volunteers.
- (c) Notify persons of inappropriate conduct and encourage appropriate behavior when interacting with others.
- (d) Inform the university community about the problems caused by discrimination and harassment and the unacceptability and illegality of discrimination and harassment.
- (e) Address issues of discrimination and harassment from a multicultural perspective.
- (2) A statement regarding discrimination and harassment will appear in the university bulletins (graduate and undergraduate), on the webpage of the office of equal opportunity and policy development, and relevant portions shall be referenced in "The Student Code of Conduct."
- (P) Information, assistance, and counseling.
- (1) Individuals may seek general information, anonymously or otherwise, regarding this policy by contacting any of the following offices/units.

However, general inquiries with these offices/units will not be considered a report to the university and will not result in action under this policy.

- (a) The equal opportunity, policy development, and Title IX office.
 - (b) The center for student progress/office of disability services.
 - (c) Housing and residence life.
 - (d) Office of human resources.
 - (e) Intercollegiate athletics.
 - (f) Office of student affairs through the ombudsperson.
- (2) A student may seek counseling or support services on campus from the university student counseling services during regular business hours (330-941-3737). Employees may contact the office of human resources for information on available counseling services. Information shared within the context of counseling services is considered confidential to the extent permitted by state and federal law.
- (3) An individual who seeks information, assistance, or counseling may still utilize this policy to file a complaint.
- (4) For information on sexual misconduct including sexual assault, dating violence, domestic violence, stalking, or any other conduct of a sexual nature that is carried out without consent or through force, threat, intimidation or coercion, please see rule 3356-2-3.1 of the Administrative Code. (Corresponding university policy 3356-2-3.1 can be found on the “[University Policies](#)” webpage.)

3356-2-03 Discrimination/harassment.

Responsible Division/Office: Equal Opportunity, Policy Development, and Title IX
Responsible Officer: Director for Equal Opportunity, Policy Development, and Title IX
Revision History: June 2009; June 2015; September 2016; September 2019; September 2020; June 2021
Board Committee: University Affairs
Effective Date: June 3, 2021
Next Review: 2026

(A) Policy statement. Youngstown state university (“university”) does not discriminate on the basis of race, color, national origin, age, sexual orientation, gender identity and/or expression, disability, or veteran status or any other basis protected by law in its programs or activities. The university is firmly committed to maintaining a working and learning environment free of discrimination and harassment of any employee, applicant for employment, student, or visitor. The university community seeks to eliminate discrimination and harassment through education and encourages staff, faculty, students, visitors, and volunteers to report concerns or complaints. Prompt corrective measures will be taken to stop discrimination and harassment whenever it occurs.

This policy shall be interpreted and applied consistent with the speech protections of the first amendment of the United States Constitution.

(B) Purpose. The purpose of this policy is to establish expectations for institutional and individual conduct, aid the university community in recognizing and preventing discrimination and harassment, and provide effective reporting and response mechanisms. For purposes of this policy, the university community includes, but is not limited to, all university employees, students, and any other individual visiting or engaging in any university activity or program.

(C) Scope. This policy applies to students, faculty, employees (including student employees), third parties, campus visitors, or other individuals engaged in any university activity or program, regardless of sexual orientation or gender identity, and whether on or off campus. The prohibitions of this policy may, in some instances, be broader in scope than the legal prohibitions of state, federal, or other laws prohibiting discrimination or harassment. A determination that this policy has been violated is not equivalent to a violation of law.

- (D) Definitions. For the purpose of determining whether a particular behavior or course of conduct constitutes discrimination or harassment under this policy, the following definitions shall be used:
- (1) “Discrimination.” Conduct that is based on an individual’s sex (including pregnancy), race, color, religion, national origin, age, sexual orientation, gender identity and/or expression, disability, or veteran/military status or any other basis protected by law that:
 - (a) Adversely affects a term or condition of an individual’s employment, education, or participation in a university activity or program; or
 - (b) Is used as the basis for a decision affecting an individual’s employment, education, or participation in a university activity or program; or
 - (c) Is sufficiently severe or pervasive to a reasonable person that it substantially interferes with an individual’s employment or educational performance or create a working, living, or educational environment that is intimidating, hostile, or abusive.
 - (2) “Harassment.” Conduct, or a course of conduct, that degrades or shows hostility toward an individual or group of individuals and is based on sex (including pregnancy), race, color, religion, national origin, age, sexual orientation, gender identity and/or expression, disability, or veteran status or any other basis protected by law, and is sufficiently severe or pervasive to a reasonable person that it:
 - (a) Unreasonably interferes with an individual’s employment or education; or
 - (b) Objectively creates a working, living, or educational environment that is hostile, intimidating, or abusive.
 - (3) “Sexual harassment.” Sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that is unwelcome and sufficiently severe or pervasive from both a subjective (the complainant’s) and an objective (reasonable person’s) viewpoint when it meets any of the following:
 - (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, academic status, or participation in a university program or activity.

- (b) Submission to or rejection of such conduct by an individual is used as the basis for employment, academic, or programing decisions affecting the individual.
 - (c) The conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an employment, academic, or participation environment that is objectively intimidating, hostile, or abusive.
 - (d) Sexual harassment can be directed at a member of the same or different sex or sexual orientation. Examples of inappropriate conduct which may constitute sexual harassment include but are not limited to:
 - (i) Sexual advances or propositions, either explicit or implied.
 - (ii) Sexually suggestive or sexually degrading innuendo, comments or gestures.
 - (iii) Remarks or inquiries about sexual activity, sexual orientation, or gender identity or expression.
 - (iv) The display or communication of sexually oriented material (including through e-mail or other electronic means).
 - (v) Unwanted touching, hugging, or contacting another's body.
 - (e) "Sexual harassment," as defined in Title IX of the Education Amendments of 1972, is set forth in the university Title IX sexual harassment policy. (See rule 3356-02-05 of the Administrative Code, university policy "Title IX sexual harassment policy." Students, faculty employees, volunteers, third parties, campus visitors or other individuals should refer to the Title IX policy referred to above for processes and procedures under Title IX.)
- (4) Speech or conduct protected by the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution is not harassment for purposes of this policy. (See university policy 3356-4-21 Campus free speech.)
- (5) Intimidating, hostile, or abusive environment (collectively referred to as a hostile environment) is a specific form of discrimination and is often

contextual and must be based on the circumstances. These circumstances include but are not limited to:

- (a) The frequency of the conduct.
 - (b) The nature and severity of the conduct.
 - (c) The relationship between the complainant and the respondent.
 - (d) The location and context in which the alleged conduct occurs.
 - (e) Whether the conduct was physically threatening.
 - (f) Whether the conduct was humiliating.
 - (g) Whether the conduct arose in the context of other discriminatory conduct.
- (E) No supervisor (including a faculty supervisor), manager, or official representative of the university shall directly or indirectly imply or threaten that an applicant, employee, or student's submission to or refusal of sexual advances will positively or negatively affect his or her employment, employment conditions, career development, or academic status. This prohibition includes, but is not limited to, instructors, faculty members, graduate assistants and teaching assistants.
- (F) Employee-student consensual relationships. Relationships that might be appropriate in other contexts may, within a university setting, create the appearance or basis for an abuse of power, conflict of interest, favoritism, or of undue advantage. Many university employees are entrusted with advising and mentoring students, evaluating their work, and recommending students for advancement in employment, programs or academia. The unequal institutional power which is inherent in such a relationship heightens the vulnerability of both the student and employee for possible abuse or coercion and can present real or perceived conflict.
- (1) For purposes of this policy, a consensual intimate or sexual relationship is a relationship of an intimate, dating, and/or sexual nature entered into with the consent of both parties (hereinafter referred to as a relationship for purposes of this policy).
 - (2) This policy applies to employees and individuals, whether paid or unpaid, who teach, coach, evaluate, supervise, advise, control, or influence student

employment, academic, or resource opportunities. These individuals include but are not limited to:

- (a) Faculty, lecturers, and instructors (including visiting faculty/instructors),
 - (b) Graduate students,
 - (c) Teaching assistants,
 - (d) Academic advisors,
 - (e) Coaches,
 - (f) Residence hall professional staff.
- (3) Intimate relationships with students. Because of the elevated risk and the potential exposure of the university and employees to liability for violation of laws against sexual harassment and discrimination and in order to maintain an environment as free as possible from conflicts of interest and favoritism, no employee/individual as defined in this rule shall enter into a relationship with a Youngstown state university student, including but not limited to undergraduate, graduate, part-time, or full-time, regardless of whether or not there is a direct supervisory or evaluative relationship between them. Should a relationship predate either admission or employment with the university, the individuals involved in the relationship shall inform his/her immediate supervisor and dean and alternate supervisory or academic arrangements shall be made. This prohibition does not apply to married couples; however, rule 3356-7-01 of the Administrative Code regarding conflicts of interest should be consulted. (Corresponding university policy 3356-7-01 can be found on the [“University Policies”](#) webpage.)
- (G) Duty of managers and supervisors to act. Any supervisor, including executive and administrative officers, chairs, executive directors/directors, or faculty supervisor who becomes aware of information that would lead a reasonable person to believe that harassment and/or discrimination has or is occurring shall notify the office of equal opportunity and policy development (“EOPD”) and/or human resources promptly but no later than five working days after becoming aware of the information. The office of human resources shall promptly notify EOPD.
- (H) Complaint procedures.
- (1) The university encourages all persons who believe they have experienced or witnessed discrimination or harassment to promptly file a complaint with

EOPD. A complaint may be formal or informal. However, a complaint alleging a violation of this policy must be filed within three hundred days of the behavior or the last incident at issue. Delays in filing or reporting may make it more difficult for the university to conduct an investigation.

- (2) An individual also has the right to file a complaint with external agencies, including, but not limited to, the Ohio civil rights commission, the equal employment opportunity commission and/or the department of education. Utilizing the university's internal complaint procedure does not extend the deadline for filing a complaint with the external agencies. However, it is recommended that the complainant first exhaust the internal complaint procedures by promptly reporting the complaint.
 - (3) The university may assume the role of a complainant and pursue a complaint either informally or formally when it obtains information that would lead a reasonable person to believe that this policy has been violated. In these instances, the university may take any action it deems appropriate, including informing the alleged perpetrator of the complaint and pursuing an investigation even in cases where an alleged victim of harassment or discrimination is reluctant to proceed. The alleged victim will be notified in advance when such action is necessary.
 - (4) Complaint investigations will follow the procedures set forth in the university's "Guidelines for Initiating and Investigating Complaints of Discrimination and Harassment." These guidelines may be obtained from EOPD.
 - (5) Information related to a report of discrimination and/or harassment will only be shared with those university employees who need to know in order to assist in the review, investigation, or resolution of a complaint. The university will make every reasonable effort to conduct all proceedings in a manner that will protect the privacy of all parties. Parties to the complaint should treat the matter under investigation with discretion and respect for the reputation of all parties involved.
- (I) Interim measures. During the course of an investigation, it may be necessary and advisable for the university to take appropriate interim measures that are reasonably available to alleviate the conduct which is the basis of a complaint. These interim measures may include, but are not limited to, separating the parties, placing limitations on contact between the parties, or making alternative academic, living or workplace arrangements. Failure to comply with the terms of interim measures is a

- violation of this policy and may result in corrective measures, even if the initial complaint is not proven.
- (J) Non-retaliation. University policy and state and federal law prohibit retaliation against an individual for reporting discrimination or harassment or for assisting or participating in an investigation. Persons who believe they are experiencing retaliation for reporting or participating in an investigation of a complaint are strongly encouraged to contact EOPD. Any person found to have retaliated against another for reporting, participating, or cooperating in an investigation will be in violation of this policy and will be subject to corrective measures and/ or sanctions independent of the merits of the original complaint.
- (K) Corrective measures.
- (1) When it has been determined that discrimination, harassment, or retaliation has occurred, steps will be taken to ensure that the prohibited behavior is stopped. Corrective measures and/or sanctions will be imposed consistent with the severity of the offense, applicable university procedures, and collective bargaining agreements. Corrective measures may include sanctions and/or discipline up to and including termination for employees and expulsion for students. In the event that a record of such sanctions will become a part of an employee's personnel records, prior notice will be given to the employee.
 - (2) Sanctions may also be imposed on any individual with a duty to act under this policy and associated procedures, who fails to respond in a manner consistent with this policy to a complaint or reasonable information of discrimination, harassment, or retaliation.
 - (3) To the extent possible under applicable law and policies, a complainant will be informed of the corrective measures taken.
- (L) False allegations. It is a violation of this policy for anyone to intentionally report information or allegations that they know, or reasonably should know, to be untrue or false. Sanctions may be imposed on individuals who make false accusations of discrimination or harassment. Failure to prove a claim of discrimination or harassment is not equivalent to a false allegation and no person shall be penalized for good faith reporting of concerns under this policy.
- (M) Use of discrimination and harassment allegations in employment actions or academic status decisions. When making decisions affecting an individual's employment or academic status, allegations of discrimination and harassment may be considered only if they have been addressed through this policy or procedure, a court of law, or other administrative proceeding such as a student conduct hearing for a student accused of

- a policy violation. Whenever such an allegation is discussed as part of a determinant in the terms and conditions of an employment or academic status, the affected party should be given notice.
- (N) Policy and procedure administration. The office of equal opportunity and policy compliance is responsible for the administration of this policy and the associated procedures. However, all university employees, staff, and students play a role in preventing and reporting discrimination and harassment.
- (O) Educational goals and objectives.
- (1) It is the goal of the university to prevent and eliminate discrimination and/or harassment and to foster an environment of respect for all individuals. In furtherance of these goals, every employee shall complete programs and/or training as directed by the office of human resources and/or the office of equal opportunity and policy compliance. The office of human resources, in conjunction with the office of equal opportunity and policy compliance, shall provide information, programs, and/or training to meet the following goals:
- (a) Provide information about the university's policies relating to discrimination and harassment and the corresponding procedures and reporting mechanisms.
- (b) Include information regarding this policy in orientation materials for new faculty, staff, students, and volunteers.
- (c) Notify persons of inappropriate conduct and encourage appropriate behavior when interacting with others.
- (d) Inform the university community about the problems caused by discrimination and harassment and the unacceptability and illegality of discrimination and harassment.
- (e) Address issues of discrimination and harassment from a multicultural perspective.
- (2) A statement regarding discrimination and harassment will appear in the university bulletins (graduate and undergraduate), on the webpage of the office of equal opportunity and policy development, and relevant portions shall be referenced in "The Student Code of Conduct."
- (P) Information, assistance, and counseling.
- (1) Individuals may seek general information, anonymously or otherwise, regarding this policy by contacting any of the following offices/units.

However, general inquiries with these offices/units will not be considered a report to the university and will not result in action under this policy.

- (a) The equal opportunity, policy development, and Title IX office.
 - (b) The center for student progress/office of disability services.
 - (c) Housing and residence life.
 - (d) Office of human resources.
 - (e) Intercollegiate athletics.
 - (f) Office of student affairs through the ombudsperson.
- (2) A student may seek counseling or support services on campus from the university student counseling services during regular business hours (330-941-3737). Employees may contact the office of human resources for information on available counseling services. Information shared within the context of counseling services is considered confidential to the extent permitted by state and federal law.
- (3) An individual who seeks information, assistance, or counseling may still utilize this policy to file a complaint.
- (4) For information on sexual misconduct including sexual assault, dating violence, domestic violence, stalking, or any other conduct of a sexual nature that is carried out without consent or through force, threat, intimidation or coercion, please see rule 3356-2-3.1 of the Administrative Code. (Corresponding university policy 3356-2-3.1 can be found on the “[University Policies](#)” webpage.)



**RESOLUTION TO MODIFY
TITLE IX SEXUAL HARASSMENT POLICY, 3356-2-05**

WHEREAS, University Policies are reviewed and reconceptualized on an ongoing basis; and

WHEREAS, this process can result in the modification of existing policies, the creation of new policies, or the deletion of policies no longer needed; and

WHEREAS, action is required by the Board of Trustees prior to replacing and/or implementing modified or newly created policies, or to rescind existing policies; and

WHEREAS, the Title IX Sexual Harassment policy has been reviewed pursuant to the five-year review cycle, and formatted in accordance with Policy 3356-1-09, Development and Issuance of University Policies.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University does hereby approve the modification of the University Policy Title IX Sexual Harassment, policy number 3356-2-05, shown as Exhibit __ attached hereto. A copy of the policy indicating changes to be made is also attached.

3356-2-05 Title IX sexual harassment policy.

Responsible Division/Office: Equal Opportunity, Policy Development, and Title IX
Responsible Officer: Director of Equal Opportunity, Policy Development, and Title IX
Revision History: September 2020; [June 2021](#)
Board Committee: University Affairs
Effective Date: ~~September 3, 2020~~ [June 3, 2021](#)
Next Review: ~~2025~~ [2026](#)

- (A) Policy statement. Youngstown state university (“YSU” or “university”) is committed to fostering and maintaining a ~~fair and equal~~ [safe, nondiscriminatory](#) environment for its students and employees consistent with the requirements of Title IX of the Education Amendments of 1972 and Title 34, Part 106 of the Code of Federal Regulations (“Title IX”). Sexual harassment, including sexual assault, dating violence, domestic violence and stalking, is strictly prohibited by this policy. Retaliation against those who report sexual harassment or participate in the process outlined in this policy is prohibited.
- (B) Purpose. To provide the university community with a clearly articulated set of behavioral standards, common understandings of definitions, descriptions of prohibited conduct, relevant information, and reporting options consistent with the requirements of Title IX.
- (C) Scope. This policy applies to all students, faculty, employees (including student employees), volunteers, and third parties, campus visitors or other individuals engaged in any university activity or program within the United States, regardless of sexual orientation or gender identity.

For purposes of this policy, a university activity or program is a location, event or circumstance over which the university exercises substantial control over both the respondent and the context in which the alleged sexual harassment occurred, whether on or off campus.

- (D) Definitions (for purposes of this policy).
 - (1) “Sexual harassment.” Conduct on the basis of sex that satisfies one or more of the following categories:

- (a) An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo). An individual does not have to submit to the conduct in order for quid pro quo sexual harassment to occur.
- (b) Unwelcome conduct determined by the reasonable person's standard to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity (i.e., hostile environment).
- (c) "Sexual assault" as defined in the Clery Act (which includes rape, fondling, incest or statutory rape, as defined in this paragraph).
 - (i) "Rape" (except statutory rape). The 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.
 - (ii) "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 his/her age or because of his/her temporary or permanent mental incapacity.
 - (iii) "Incest." Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - (iv) "Statutory rape." Sexual intercourse with a person who is under the statutory age of consent.
- (d) Dating violence, domestic violence, or stalking pursuant to the Violence Against Women Act (also defined in this paragraph).
 - (i) "Dating violence." Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- (ii) “Domestic violence.” 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, 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.
 - (iii) “Stalking.” Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- (e) “Sexual misconduct.” Conduct of a sexual nature that is nonconsensual or is carried out through force, threat, or coercion. Sexual misconduct includes but not limited to sexual exploitation and voyeurism.
 - (i) “Sexual exploitation.” Sexual exploitation occurs when a person takes nonconsensual or abusive sexual advantage of another for his/her own benefit or advantage or to benefit or advantage anyone other than the person being exploited, and that behavior does not otherwise constitute another form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, prostituting another, nonconsensual video or audiotaping of sexual activity, permitting others to secretly observe or record consensual activity or engaging in voyeurism.
 - (ii) “Voyeurism.” Voyeurism occurs when a person, for the purposes of sexual arousal or gratification sexual purposes, surreptitiously invades the privacy of another. Voyeurism can occur in person or through recording or electronic means.

(2) [Speech or conduct protected by the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution is not](#)

[harassment for purposes of this policy. \(See university policy 3356-4-21 Campus free speech.\)](#)

- ~~(2)~~(3) ——— “Consent.” An action which is defined as positive, unambiguous, voluntary and ongoing agreement to engage in a specific activity. Consent is the equal approval, given freely, willingly, and knowingly, of each participant to desired sexual involvement. Consent is an affirmative, conscious decision – indicated clearly by words or actions – to engage in mutually accepted sexual contact. A person may be incapable of giving consent due to physical incapacitation, physical or mental disability, threat or force, coercion, the influence of drugs or alcohol or age. Silence or lack of resistance cannot be the sole factor in determining one has received consent.
- (a) “Coercion.” Intimidation, physical, or psychological threat, or pressure used to force another to engage in sexual acts. Coercion is unreasonable pressure for sexual activity.
 - (b) “Force.” The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.
 - (c) “Incapacitation.” Inability to evaluate, understand, or control conduct because an individual is unconscious, asleep, intoxicated or under the influence of other drugs, or for any other reason, physically, mentally, or legally unable to communicate or grant consent. Incapacitation does not correlate to a specific blood alcohol content (BAC) and could be the result of drug use.
- ~~(3)~~(4) ——— “Complainant.” An individual who is alleged to have experienced conduct that could violate this policy. Also referred to as a “party” for purposes of this policy.
- ~~(4)~~(5) ——— “Respondent.” An individual who has been reported to be the perpetrator of conduct that could violate this policy. A respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility has been made pursuant to the hearing protocol. Also referred to as a “party” for purposes of this policy.

~~(5)~~(6) ——— “Student.” An individual is a student when they are registered for courses, seminars, or workshops at the university, either full-time or part-time; pursuing graduate, undergraduate, or continuing education courses; accepted for admission; or living in a resident hall, whether or not actually enrolled at the university.

~~(6)~~(7) ——— “Faculty member.” An individual who is employed by the university to conduct classroom, research, or teaching activities.

~~(7)~~(8) ——— “Employee.” An individual is an employee when they have been hired/employed by the university to perform certain work or services at a specified hourly wage or salary. Student employees are employees for purposes of this policy.

(E) Grievance process.

- (1) Timeframe. The process outlined below is expected to occur within ninety calendar days from the date a complaint is filed. The Title IX coordinator or designee may extend this time period by providing written notice to the parties citing the reason(s) for the extension. The complainant or respondent may request a temporary delay of the grievance process for good cause by written request to the Title IX coordinator. Good cause includes, but is not limited to, the absence of party, a party’s advisor or a witness, or the accommodation for disabilities.
- (2) Report. Information, however received, alleging sexual harassment as defined in this policy and provided to a person with the authority to initiate corrective action. A report may lead to further action, including the filing of a formal complaint, depending on the alleged facts and circumstance. [The university encourages individuals to report any allegations as defined in this policy. A report may be submitted by mail, e-mail, in person, by telephone or electronically at Title IX@ysu.edu.](#)
- (3) Formal complaint. A formal complaint is a verbal or written account which alleges a conduct which could violate this policy and is made to a person with authority to initiate corrective action. A complaint may be submitted by mail, email, in person, by telephone or electronically at [Title IX@ysu.edu](#).
- (4) Notice.

- (a) Upon receipt of a formal complaint, the university shall provide the following written notice to the parties who are known: notice of this grievance process, including any informal resolution process; and notice of the allegations of sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
- (b) If, in the course of an investigation, the university decides to investigate allegations about the complainant or respondent that are not included in the notice provided, the university shall provide notice of the additional allegations to the parties whose identities are known.
- (c) Notice to the university staff listed in this paragraph, of sexual harassment or allegation of sexual harassment, constitutes actual notice to the university and triggers the university's obligation to respond.
 - (i) Title IX coordinator and deputy Title IX coordinators.
 - (ii) Director of equal opportunity and policy development.
 - (iii) Vice presidents and associate vice presidents.
 - (iv) Academic deans and chairpersons.
 - (v) Supervisors/managers.
 - (vi) Coaches and assistant coaches.
- (5) Consolidation of formal complaints. The university 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. Where a grievance process involves more than one complainant or more than one respondent, references in this policy to the singular "party," "complainant," or "respondent" include the plural, as applicable.
- (6) Dismissal of formal complaint. The Title IX coordinator shall dismiss formal complaints that do not meet the following criteria.

- (a) Mandatory dismissal.
 - (i) Would not constitute sexual harassment as defined in this policy, even if proved.
 - (ii) The alleged sexual harassment did not occur in the university's education program or activity.
 - (iii) The alleged conduct did not occur in the United States.
 - (b) Discretionary dismissal.
 - (i) Complainant notifies the Title IX coordinator in writing that they would like to withdraw the formal complaint.
 - (ii) The respondent is no longer enrolled or employed by the university.
 - (iii) Specific circumstances prevent the university from gathering sufficient evidence.
 - (c) The dismissal of a formal complaint shall be done simultaneously and in writing to the parties.
 - (d) A dismissal of a formal complaint may be appealed pursuant to paragraph (F) of this rule.
 - (e) A formal complaint which is dismissed pursuant to this policy may be considered under a different university policy, such as policy 3356-2-3, "Discrimination/harassment" or 3356-7-04, "Workplace and off-campus violence, threats, and disruptive behavior," or under the student code of conduct.
- (7) Informal resolution. At any time prior to reaching a determination regarding responsibility, the university may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.
- (a) Both parties' voluntary, written consent to the informal resolution process is necessary. At any time prior to agreeing to a resolution,

any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

- (b) Informal resolution is not an option for resolving allegations that an employee or faculty member sexually harassed a student.
- (8) Investigation. The Title IX coordinator or designee is responsible for investigating formal complaints which meet the criteria of this policy.
- (a) The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the investigator and not on the parties.
 - (b) The respondent is not considered responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
 - (c) The university shall 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 the university obtains that party's voluntary, written consent to do so for a grievance process under this paragraph, or as permitted by law.
 - (d) The parties shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence during the course of the investigation. All parties are free to discuss the allegations under investigation or to gather and present relevant evidence.
 - (e) All parties shall have the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice including an attorney. However, the advisor may not speak during any interview or proceedings, with the exception of the cross-examination portion of any hearing.

- (f) Any party whose participation is invited or expected shall receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.
 - (g) Both parties shall receive 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 so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
 - (h) Prior to completion of the investigative report, the investigator shall 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 shall have ten calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.
 - (i) The investigator shall make all evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
 - (j) The investigator shall create an investigative report that fairly summarizes relevant evidence and shall provide a copy, in electronic or hard copy format, to the parties and their advisors at least ten calendar days prior to any hearing. ~~Either party can submit a written response to the investigator during these ten days.~~
- (9) Hearings. Formal complaints that are not resolved informally or dismissed will result in a live hearing.
- (a) The hearing will be scheduled by the office of student conduct and will be held before a Title IX decision-maker. Where the complainant and respondent are both employees and/or faculty members, the Title IX coordinator will convene the hearing.
 - (b) Live hearings may be conducted with all parties physically present in the same geographic location, or participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

- (c) The decision-maker shall permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing shall be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- (d) At the request of either party, the hearing may occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- (e) Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker shall first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Parties may not challenge the relevancy determination of the decision-maker, except on appeal.
- (f) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if 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.
- (g) If a party does not have an advisor present at the live hearing, the university shall provide without fee or charge to that party an advisor of the university's choice to conduct cross-examination on behalf of that party.
- (h) If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) shall not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker cannot 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.

- (i) Credibility determinations shall not be based on a person's status as a complainant, respondent, or witness.
 - (j) Parties are not required to divulge any medical, psychological, or similar privileged records as part of the hearing process.
 - (k) The hearing convener shall create an audio recording for a live hearing and an audiovisual recording for a virtual live hearing. Such recording will be available to the parties for inspection and review upon written request to the convener.
- (10) Findings.
- (a) The hearing decision-maker shall issue a written determination simultaneously to the parties regarding responsibility/policy violation(s) and sanctions/discipline when responsibility/policy violation is found to have occurred. To reach this determination, the preponderance of the evidence standard (whether it is more likely than not that the alleged conduct occurred) will be used.
 - (b) The determination regarding responsibility and sanction(s)/discipline becomes final either on the date that the university provides the parties with the written determination of the result of the appeal, if an appeal is filed; or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
 - (c) The written determination shall include:
 - (i) Identification of the allegations potentially constituting sexual harassment.
 - (ii) A description of the procedural steps which were followed starting with the formal complaint and continuing through determination.
 - (iii) The finding of facts that support the determination.
 - (iv) A conclusion applying the appropriate definition of the university's policy to the facts.
 - (v) A rationale for the result of each allegation regarding the determination of responsibility.

- (vi) For respondents who are students, the hearing decision-maker shall consult with the vice president of student experience or their designee regarding sanctions. For respondents who are employees or faculty members, the hearing decision-maker shall consult with the chief human resources officer or their designee regarding discipline.
 - (vii) Information regarding whether remedies designed to restore or preserve equal access to the university's education program or activity will be provided to the complainant. The Title IX coordinator is responsible for effective implementation of any remedies.
 - (viii) The procedures and bases for the complainant and respondent to appeal the determination.
- (11) Sanctions/discipline.
- (a) Students.
 - (i) Possible sanctions for student respondents: warning, conduct probation with or without ~~restrictions~~loss of good standing, restitution, educational sanctions, ~~deferred suspension, residence hall~~residential suspension, university suspension, ~~residence hall~~residential expulsion, university expulsion, revocation of admission and/or degree, withholding degree, and fines.
 - (ii) ~~Students who have been found responsible for serious misconduct and are returning from a sanction of suspension will be subject to additional parameters, including conduct probation with loss of good standing for one calendar year preventing the student from participating in any extracurricular functions, including athletics, student organizations, and student employment. Serious misconduct is defined as any act of sexual assault, domestic violence, dating violence, stalking, sexual exploitation, or any assault that employs the use of a deadly weapon, as defined in division (A) of section 2923.11 of the Revised Code, or causes serious bodily injury.~~ Serious misconduct is defined as any act of sexual assault, domestic violence, dating violence,

stalking, sexual exploitation, or any assault that employs the use of a deadly weapon, as defined in division (A) of section 2923.11 of the Revised Code, or causes serious bodily injury. Students found responsible for violations of the serious misconduct policy will face, at minimum, a sanction of conduct probation with loss of good standing for one calendar year, preventing the student from participating in any extracurricular functions including athletics, student organizations, and student employment. After one year, students may petition the dean of students for permission to participate in extracurricular activities and employment.

Students returning from a sanction of suspension will automatically be placed on conduct probation with loss of good standing for one calendar year, preventing the student from participating in any extracurricular functions including athletics, student organizations, and student employment. After one year, students may petition the dean of students for permission to participate in extracurricular activities and employment.

- (b) Possible sanctions/discipline for employee or faculty respondents: employment probation, demotion or reassignment, suspension with or without pay for a specific period of time, termination of employment, ineligibility for rehire, and/or other sanctions or remedies as deemed appropriate under the circumstances.
- (F) The appeal process.
- (1) Filing an appeal.
 - (a) Appeals are not a re-hearing of the allegation(s).
 - (b) Only a complainant or respondent (referred to as party or parties) may request an appeal.
 - (c) An appeal must be submitted in writing to the Title IX coordinator within five working days from receipt of a decision using the Title IX appeal request form and include all supporting material.

- (d) A party may appeal the determination regarding responsibility, sanctions/discipline, and/or the university's dismissal of a formal complaint or any allegations therein.
- (e) There are four grounds for appeal:
 - (i) Procedural irregularity that significantly impacted the outcome of the matter (for example material deviation from established procedures). The appeal request must cite specific procedures and how they were in error; and/or
 - (ii) New evidence that was not reasonably available at the time the original decision was made that could have affected the outcome. A summary of this new evidence and its potential impact must be included in the request. (Note: Failure to participate or provide information during an investigation or hearing, even based on concern over a pending criminal or civil proceeding, does not make information unavailable during the original investigation or hearing); and/or
 - (iii) 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. The appeal must cite specific examples of how the bias affected the outcome.
 - (iv) The discipline/sanction(s) imposed are substantially outside the parameters or guidelines set by the university for this type of violation or the cumulative conduct record of the responding party.
- (2) Title IX appellate review officer (hereinafter referred to appellate review officer). Upon receipt of a request for appeal, the Title IX coordinator will designate a Title IX appellate review officer as follows:
 - (a) Appeals where the respondent is a student, the appellate officer will be either the vice president for student affairs or their designee or a deputy Title IX coordinator who did not participate in the investigation or hearing.

- (b) Appeals where the respondent is a faculty member or employee, the appellate officer will be either the chief human resources officer or their designee or a deputy Title IX coordinator who did not participate in the investigation or hearing.
 - (c) The appellate officer cannot be the investigator, Title IX coordinator, or the person who acted as the decision-maker regarding the determination of responsibility/policy violation, or dismissal.
- (3) Appeal procedures:
- (a) Generally, within five business days after receipt of the request for appeal by the appellate review officer, the appellate review officer will conduct an initial review of the appeal request(s) to determine whether the appeal is timely and satisfies the grounds for appeal.
 - (b) If the appeal request is not timely or does not satisfy the grounds for appeal, the appeal request will be denied, the parties will be notified, and the finding and sanction or responsive action/remedies will stand. The decision not to accept an appeal request is final and is not subject to further appeal.
 - (c) If the appeal request is timely and meets the ground for appeal, the Title IX coordinator will notify the parties that the appeal has been accepted and will notify the non-appealing party that they may file a response within three business days from notification.
 - (d) The appellate review officer will then review the issues presented in the appeal and any response(s).
 - (e) The standard on appeal is whether there is relevant evidence/information such that a reasonable person would support the decision(s).
 - (f) The appellate review officer can take one of the following actions:
 - (i) Affirm the original findings;
 - (ii) Remand the case to the original investigators or hearing panel for consideration of new evidence or to remedy a procedural irregularity;

- (iii) Remand the case to a new investigator in a case of bias. The appellate review officer, may order a new investigation with a new investigator or hearing panel; or
 - (iv) Administratively alter the finding if bias, procedural irregularity, or new evidence, unknown or unavailable during the original investigation, substantially affected the original finding and the associated sanctions or responsive action.
 - (g) Decisions rendered by the appellate review officer or actions taken following the decisions appellate review officer's decision are final and not subject to further appeal.
 - (h) Cases that are sent back to the investigator or hearing panel are not eligible for a second appeal.
- (G) When a minor is involved. When a report or formal complaint involves a student who has not yet reached the age of eighteen:
- (1) The Title IX coordinator will complete a safety assessment to provide an environment free of harm and to identify the student's legal guardian.
 - (2) The Title IX coordinator or deputy coordinator advises the minor student of the responsibility of university staff to report child abuse as outlined in section 2151.421 of the Revised Code.
 - (3) The Title IX coordinator or deputy Title IX coordinator works directly with the guardian in reviewing the university's sexual harassment policy and protocols, on and off campus resources available to the student, and seeking permission to investigate the report or formal complaint.
 - (4) The student and guardian are advised of the university's student records and privacy practices available at <https://ysu.edu/registrar/ferpa> and specifically that the student's records and ability to make decisions transition to the student when they turn eighteen.
 - (5) The student and guardian are advised that the "Compass Family and Community Services Rape Crisis and Counseling Center of Mahoning County" provides confidential and anonymous support for clients, including those who are not yet eighteen.

- (H) Retaliation prohibited. No person may intimidate, threaten, coerce, or discriminate against any individual 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 this policy. Complaints alleging retaliation may be filed according to the grievance procedures in this policy.
- (I) Emergency actions. The university may remove a student respondent from an education program or activity on an emergency basis after an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. The student respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. The university may place an employee respondent on administrative leave during the pendency of the grievance and appeal process.
- (J) Supportive measures. 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 the university's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions 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.
- (K) Confidential resources. An individual who desires that the details of an incident be kept confidential may speak with professional licensed counselors who provide mental health counseling on campus. Pastoral or clergy and medical professionals also have legally protected roles involving confidentiality. A list of confidential resources is available at the university's [Title IX website](#).
- (L) Non-confidential reporting and recordkeeping.
 - (1) Ohio law requires those not in a legally protected role with knowledge of a felony to report it to law enforcement. University personnel, including the Title IX coordinator, deputy Title IX coordinators, resident assistants and office of residence life and housing professional staff, are required to notify

the university police department of any report of sexual harassment including interpersonal violence.

- (2) Conduct reported to the university police that may be a Title IX violation will be reported to the Title IX coordinator. A report to the university police or other law enforcement agency does not require the pursuit of criminal charges. Neither the complainant nor the respondent is under any obligation to speak with the law enforcement authorities, even when the conduct is reported to them.
- (M) Conflict of interest. The Title IX coordinator, any investigator, decision-maker, or any person facilitating a process under this policy shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent specifically.
- (N) Miscellaneous
- (1) Training. Investigations and hearings are designed to provide a prompt, fair, and impartial resolution regarding an alleged violation of this policy disciplinary matter. All Title IX coordinators, investigators, decision-makers, advisors and appellate review officers, and any person who facilitates an informal resolution process are trained using appropriate materials that will not rely on sex stereotypes and will promote impartial, unbiased investigations and adjudications of complaints of Title IX sexual harassment.
 - (2) Prevention and education programs. The university shall provide programs and/or training (collectively referred to as “trainings”) for employees and students designed to prevent and promote awareness of sexual harassment. The trainings shall be consistent with applicable legal requirements and university policies. The office of human resources, with oversight from the Title IX coordinator, or his/her designee, shall provide training for employees; and the office of student affairs, with oversight from the Title IX coordinator, or his/her designee, shall provide training for students. [Title IX website](#). For more information on Title IX and sexual misconduct, please see the university’s Title IX website.
 - (3) False allegations. It is a violation of this policy for anyone to intentionally report information or allegations that they know, or reasonably should know, to be untrue or false. However, failure to prove an allegation is not equivalent to a false allegation.

3356-2-05 Title IX sexual harassment policy.

Responsible Division/Office: Equal Opportunity, Policy Development, and Title IX
Responsible Officer: Director of Equal Opportunity, Policy Development, and Title IX
Revision History: September 2020; June 2021
Board Committee: University Affairs
Effective Date: June 3, 2021
Next Review: 2026

- (A) Policy statement. Youngstown state university (“YSU” or “university”) is committed to fostering and maintaining a safe, nondiscriminatory environment for its students and employees consistent with the requirements of Title IX of the Education Amendments of 1972 and Title 34, Part 106 of the Code of Federal Regulations (“Title IX”). Sexual harassment, including sexual assault, dating violence, domestic violence and stalking, is strictly prohibited by this policy. Retaliation against those who report sexual harassment or participate in the process outlined in this policy is prohibited.
- (B) Purpose. To provide the university community with a clearly articulated set of behavioral standards, common understandings of definitions, descriptions of prohibited conduct, relevant information, and reporting options consistent with the requirements of Title IX.
- (C) Scope. This policy applies to all students, faculty, employees (including student employees), volunteers, and third parties, campus visitors or other individuals engaged in any university activity or program within the United States, regardless of sexual orientation or gender identity.

For purposes of this policy, a university activity or program is a location, event or circumstance over which the university exercises substantial control over both the respondent and the context in which the alleged sexual harassment occurred, whether on or off campus.

- (D) Definitions (for purposes of this policy).
 - (1) “Sexual harassment.” Conduct on the basis of sex that satisfies one or more of the following categories:

- (a) An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo). An individual does not have to submit to the conduct in order for quid pro quo sexual harassment to occur.
- (b) Unwelcome conduct determined by the reasonable person's standard to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity (i.e., hostile environment).
- (c) "Sexual assault" as defined in the Clery Act (which includes rape, fondling, incest or statutory rape, as defined in this paragraph).
 - (i) "Rape" (except statutory rape). The 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.
 - (ii) "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 his/her age or because of his/her temporary or permanent mental incapacity.
 - (iii) "Incest." Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - (iv) "Statutory rape." Sexual intercourse with a person who is under the statutory age of consent.
- (d) Dating violence, domestic violence, or stalking pursuant to the Violence Against Women Act (also defined in this paragraph).
 - (i) "Dating violence." Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- (ii) “Domestic violence.” 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, 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.
 - (iii) “Stalking.” Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.
- (e) “Sexual misconduct.” Conduct of a sexual nature that is nonconsensual or is carried out through force, threat, or coercion. Sexual misconduct includes but not limited to sexual exploitation and voyeurism.
 - (i) “Sexual exploitation.” Sexual exploitation occurs when a person takes nonconsensual or abusive sexual advantage of another for his/her own benefit or advantage or to benefit or advantage anyone other than the person being exploited, and that behavior does not otherwise constitute another form of sexual misconduct. Examples of sexual exploitation include, but are not limited to, prostituting another, nonconsensual video or audiotaping of sexual activity, permitting others to secretly observe or record consensual activity or engaging in voyeurism.
 - (ii) “Voyeurism.” Voyeurism occurs when a person, for the purposes of sexual arousal or gratification sexual purposes, surreptitiously invades the privacy of another. Voyeurism can occur in person or through recording or electronic means.
- (2) Speech or conduct protected by the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution is not

harassment for purposes of this policy. (See university policy 3356-4-21 Campus free speech.)

- (3) “Consent.” An action which is defined as positive, unambiguous, voluntary and ongoing agreement to engage in a specific activity. Consent is the equal approval, given freely, willingly, and knowingly, of each participant to desired sexual involvement. Consent is an affirmative, conscious decision – indicated clearly by words or actions – to engage in mutually accepted sexual contact. A person may be incapable of giving consent due to physical incapacitation, physical or mental disability, threat or force, coercion, the influence of drugs or alcohol or age. Silence or lack of resistance cannot be the sole factor in determining one has received consent.
 - (a) “Coercion.” Intimidation, physical, or psychological threat, or pressure used to force another to engage in sexual acts. Coercion is unreasonable pressure for sexual activity.
 - (b) “Force.” The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.
 - (c) “Incapacitation.” Inability to evaluate, understand, or control conduct because an individual is unconscious, asleep, intoxicated or under the influence of other drugs, or for any other reason, physically, mentally, or legally unable to communicate or grant consent. Incapacitation does not correlate to a specific blood alcohol content (BAC) and could be the result of drug use.
- (4) “Complainant.” An individual who is alleged to have experienced conduct that could violate this policy. Also referred to as a “party” for purposes of this policy.
- (5) “Respondent.” An individual who has been reported to be the perpetrator of conduct that could violate this policy. A respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility has been made pursuant to the hearing protocol. Also referred to as a “party” for purposes of this policy.

- (6) “Student.” An individual is a student when they are registered for courses, seminars, or workshops at the university, either full-time or part-time; pursuing graduate, undergraduate, or continuing education courses; accepted for admission; or living in a resident hall, whether or not actually enrolled at the university.
 - (7) “Faculty member.” An individual who is employed by the university to conduct classroom, research, or teaching activities.
 - (8) “Employee.” An individual is an employee when they have been hired/employed by the university to perform certain work or services at a specified hourly wage or salary. Student employees are employees for purposes of this policy.
- (E) Grievance process.
- (1) Timeframe. The process outlined below is expected to occur within ninety calendar days from the date a complaint is filed. The Title IX coordinator or designee may extend this time period by providing written notice to the parties citing the reason(s) for the extension. The complainant or respondent may request a temporary delay of the grievance process for good cause by written request to the Title IX coordinator. Good cause includes, but is not limited to, the absence of party, a party’s advisor or a witness, or the accommodation for disabilities.
 - (2) Report. Information, however received, alleging sexual harassment as defined in this policy and provided to a person with the authority to initiate corrective action. A report may lead to further action, including the filing of a formal complaint, depending on the alleged facts and circumstance. The university encourages individuals to report any allegations as defined in this policy. A report may be submitted by mail, e-mail, in person, by telephone or electronically at Title IX@ysu.edu.
 - (3) Formal complaint. A formal complaint is a verbal or written account which alleges a conduct which could violate this policy and is made to a person with authority to initiate corrective action. A complaint may be submitted by mail, email, in person, by telephone or electronically at [Title IX@ysu.edu](mailto:TitleIX@ysu.edu).
 - (4) Notice.

- (a) Upon receipt of a formal complaint, the university shall provide the following written notice to the parties who are known: notice of this grievance process, including any informal resolution process; and notice of the allegations of sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
- (b) If, in the course of an investigation, the university decides to investigate allegations about the complainant or respondent that are not included in the notice provided, the university shall provide notice of the additional allegations to the parties whose identities are known.
- (c) Notice to the university staff listed in this paragraph, of sexual harassment or allegation of sexual harassment, constitutes actual notice to the university and triggers the university's obligation to respond.
 - (i) Title IX coordinator and deputy Title IX coordinators.
 - (ii) Director of equal opportunity and policy development.
 - (iii) Vice presidents and associate vice presidents.
 - (iv) Academic deans and chairpersons.
 - (v) Supervisors/managers.
 - (vi) Coaches and assistant coaches.
- (5) Consolidation of formal complaints. The university 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. Where a grievance process involves more than one complainant or more than one respondent, references in this policy to the singular "party," "complainant," or "respondent" include the plural, as applicable.
- (6) Dismissal of formal complaint. The Title IX coordinator shall dismiss formal complaints that do not meet the following criteria.

- (a) Mandatory dismissal.
 - (i) Would not constitute sexual harassment as defined in this policy, even if proved.
 - (ii) The alleged sexual harassment did not occur in the university's education program or activity.
 - (iii) The alleged conduct did not occur in the United States.
 - (b) Discretionary dismissal.
 - (i) Complainant notifies the Title IX coordinator in writing that they would like to withdraw the formal complaint.
 - (ii) The respondent is no longer enrolled or employed by the university.
 - (iii) Specific circumstances prevent the university from gathering sufficient evidence.
 - (c) The dismissal of a formal complaint shall be done simultaneously and in writing to the parties.
 - (d) A dismissal of a formal complaint may be appealed pursuant to paragraph (F) of this rule.
 - (e) A formal complaint which is dismissed pursuant to this policy may be considered under a different university policy, such as policy 3356-2-3, "Discrimination/harassment" or 3356-7-04, "Workplace and off-campus violence, threats, and disruptive behavior," or under the student code of conduct.
- (7) Informal resolution. At any time prior to reaching a determination regarding responsibility, the university may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.
- (a) Both parties' voluntary, written consent to the informal resolution process is necessary. At any time prior to agreeing to a resolution,

any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

- (b) Informal resolution is not an option for resolving allegations that an employee or faculty member sexually harassed a student.
- (8) Investigation. The Title IX coordinator or designee is responsible for investigating formal complaints which meet the criteria of this policy.
- (a) The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the investigator and not on the parties.
 - (b) The respondent is not considered responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
 - (c) The university shall 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 the university obtains that party's voluntary, written consent to do so for a grievance process under this paragraph, or as permitted by law.
 - (d) The parties shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence during the course of the investigation. All parties are free to discuss the allegations under investigation or to gather and present relevant evidence.
 - (e) All parties shall have the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice including an attorney. However, the advisor may not speak during any interview or proceedings, with the exception of the cross-examination portion of any hearing.

- (f) Any party whose participation is invited or expected shall receive written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.
 - (g) Both parties shall receive 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 so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
 - (h) Prior to completion of the investigative report, the investigator shall 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 shall have ten calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.
 - (i) The investigator shall make all evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
 - (j) The investigator shall create an investigative report that fairly summarizes relevant evidence and shall provide a copy, in electronic or hard copy format, to the parties and their advisors at least ten calendar days prior to any hearing.
- (9) Hearings. Formal complaints that are not resolved informally or dismissed will result in a live hearing.
- (a) The hearing will be scheduled by the office of student conduct and will be held before a Title IX decision-maker. Where the complainant and respondent are both employees and/or faculty members, the Title IX coordinator will convene the hearing.
 - (b) Live hearings may be conducted with all parties physically present in the same geographic location, or participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
 - (c) The decision-maker shall permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up

questions, including those challenging credibility. Such cross-examination at the live hearing shall be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

- (d) At the request of either party, the hearing may occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.
- (e) Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker shall first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Parties may not challenge the relevancy determination of the decision-maker, except on appeal.
- (f) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if 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.
- (g) If a party does not have an advisor present at the live hearing, the university shall provide without fee or charge to that party an advisor of the university's choice to conduct cross-examination on behalf of that party.
- (h) If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) shall not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker cannot 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.
- (i) Credibility determinations shall not be based on a person's status as a complainant, respondent, or witness.

- (j) Parties are not required to divulge any medical, psychological, or similar privileged records as part of the hearing process.
 - (k) The hearing convener shall create an audio recording for a live hearing and an audiovisual recording for a virtual live hearing. Such recording will be available to the parties for inspection and review upon written request to the convener.
- (10) Findings.
- (a) The hearing decision-maker shall issue a written determination simultaneously to the parties regarding responsibility/policy violation(s) and sanctions/discipline when responsibility/policy violation is found to have occurred. To reach this determination, the preponderance of the evidence standard (whether it is more likely than not that the alleged conduct occurred) will be used.
 - (b) The determination regarding responsibility and sanction(s)/discipline becomes final either on the date that the university provides the parties with the written determination of the result of the appeal, if an appeal is filed; or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
 - (c) The written determination shall include:
 - (i) Identification of the allegations potentially constituting sexual harassment.
 - (ii) A description of the procedural steps which were followed starting with the formal complaint and continuing through determination.
 - (iii) The finding of facts that support the determination.
 - (iv) A conclusion applying the appropriate definition of the university's policy to the facts.
 - (v) A rationale for the result of each allegation regarding the determination of responsibility.
 - (vi) For respondents who are students, the hearing decision-maker shall consult with the vice president of student

experience or their designee regarding sanctions. For respondents who are employees or faculty members, the hearing decision-maker shall consult with the chief human resources officer or their designee regarding discipline.

- (vii) Information regarding whether remedies designed to restore or preserve equal access to the university's education program or activity will be provided to the complainant. The Title IX coordinator is responsible for effective implementation of any remedies.
 - (viii) The procedures and bases for the complainant and respondent to appeal the determination.
- (11) Sanctions/discipline.
- (a) Students.
 - (i) Possible sanctions for student respondents: warning, conduct probation with or without loss of good standing, restitution, educational sanctions, residential suspension, university suspension, residential expulsion, university expulsion, revocation of admission and/or degree, withholding degree, and fines.
 - (ii) Serious misconduct is defined as any act of sexual assault, domestic violence, dating violence, stalking, sexual exploitation, or any assault that employs the use of a deadly weapon, as defined in division (A) of section 2923.11 of the Revised Code, or causes serious bodily injury. Students found responsible for violations of the serious misconduct policy will face, at minimum, a sanction of conduct probation with loss of good standing for one calendar year, preventing the student from participating in any extracurricular functions including athletics, student organizations, and student employment. After one year, students may petition the dean of students for permission to participate in extracurricular activities and employment.
- Students returning from a sanction of suspension will automatically be placed on conduct probation with loss of good standing for one calendar year, preventing the student

from participating in any extracurricular functions including athletics, student organizations, and student employment. After one year, students may petition the dean of students for permission to participate in extracurricular activities and employment.

- (b) Possible sanctions/discipline for employee or faculty respondents: employment probation, demotion or reassignment, suspension with or without pay for a specific period of time, termination of employment, ineligibility for rehire, and/or other sanctions or remedies as deemed appropriate under the circumstances.
- (F) The appeal process.
- (1) Filing an appeal.
 - (a) Appeals are not a re-hearing of the allegation(s).
 - (b) Only a complainant or respondent (referred to as party or parties) may request an appeal.
 - (c) An appeal must be submitted in writing to the Title IX coordinator within five working days from receipt of a decision using the Title IX appeal request form and include all supporting material.
 - (d) A party may appeal the determination regarding responsibility, sanctions/discipline, and/or the university's dismissal of a formal complaint or any allegations therein.
 - (e) There are four grounds for appeal:
 - (i) Procedural irregularity that significantly impacted the outcome of the matter (for example material deviation from established procedures). The appeal request must cite specific procedures and how they were in error; and/or
 - (ii) New evidence that was not reasonably available at the time the original decision was made that could have affected the outcome. A summary of this new evidence and its potential impact must be included in the request. (Note: Failure to participate or provide information during an investigation or hearing, even based on concern over a pending criminal or

civil proceeding, does not make information unavailable during the original investigation or hearing); and/or

- (iii) 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. The appeal must cite specific examples of how the bias affected the outcome.
 - (iv) The discipline/sanction(s) imposed are substantially outside the parameters or guidelines set by the university for this type of violation or the cumulative conduct record of the responding party.
- (2) Title IX appellate review officer (hereinafter referred to as appellate review officer). Upon receipt of a request for appeal, the Title IX coordinator will designate a Title IX appellate review officer as follows:
- (a) Appeals where the respondent is a student, the appellate officer will be either the vice president for student affairs or their designee or a deputy Title IX coordinator who did not participate in the investigation or hearing.
 - (b) Appeals where the respondent is a faculty member or employee, the appellate officer will be either the chief human resources officer or their designee or a deputy Title IX coordinator who did not participate in the investigation or hearing.
 - (c) The appellate officer cannot be the investigator, Title IX coordinator, or the person who acted as the decision-maker regarding the determination of responsibility/policy violation, or dismissal.
- (3) Appeal procedures:
- (a) Generally, within five business days after receipt of the request for appeal by the appellate review officer, the appellate review officer will conduct an initial review of the appeal request(s) to determine whether the appeal is timely and satisfies the grounds for appeal.

- (b) If the appeal request is not timely or does not satisfy the grounds for appeal, the appeal request will be denied, the parties will be notified, and the finding and sanction or responsive action/remedies will stand. The decision not to accept an appeal request is final and is not subject to further appeal.
- (c) If the appeal request is timely and meets the ground for appeal, the Title IX coordinator will notify the parties that the appeal has been accepted and will notify the non-appealing party that they may file a response within three business days from notification.
- (d) The appellate review officer will then review the issues presented in the appeal and any response(s).
- (e) The standard on appeal is whether there is relevant evidence/information such that a reasonable person would support the decision(s).
- (f) The appellate review officer can take one of the following actions:
 - (i) Affirm the original findings;
 - (ii) Remand the case to the original investigators or hearing panel for consideration of new evidence or to remedy a procedural irregularity;
 - (iii) Remand the case to a new investigator in a case of bias. The appellate review officer, may order a new investigation with a new investigator or hearing panel; or
 - (iv) Administratively alter the finding if bias, procedural irregularity, or new evidence, unknown or unavailable during the original investigation, substantially affected the original finding and the associated sanctions or responsive action.
- (g) Decisions rendered by the appellate review officer or actions taken following the decisions appellate review officer's decision are final and not subject to further appeal.
- (h) Cases that are sent back to the investigator or hearing panel are not eligible for a second appeal.

- (G) When a minor is involved. When a report or formal complaint involves a student who has not yet reached the age of eighteen:
- (1) The Title IX coordinator will complete a safety assessment to provide an environment free of harm and to identify the student's legal guardian.
 - (2) The Title IX coordinator or deputy coordinator advises the minor student of the responsibility of university staff to report child abuse as outlined in section 2151.421 of the Revised Code.
 - (3) The Title IX coordinator or deputy Title IX coordinator works directly with the guardian in reviewing the university's sexual harassment policy and protocols, on and off campus resources available to the student, and seeking permission to investigate the report or formal complaint.
 - (4) The student and guardian are advised of the university's student records and privacy practices available at <https://ysu.edu/registrar/ferpa> and specifically that the student's records and ability to make decisions transition to the student when they turn eighteen.
 - (5) The student and guardian are advised that the "Compass Family and Community Services Rape Crisis and Counseling Center of Mahoning County" provides confidential and anonymous support for clients, including those who are not yet eighteen.
- (H) Retaliation prohibited. No person may intimidate, threaten, coerce, or discriminate against any individual 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 this policy. Complaints alleging retaliation may be filed according to the grievance procedures in this policy.
- (I) Emergency actions. The university may remove a student respondent from an education program or activity on an emergency basis after an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. The student respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. The university may place an employee respondent on administrative leave during the pendency of the grievance and appeal process.

- (J) Supportive measures. 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 the university's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions 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.
- (K) Confidential resources. An individual who desires that the details of an incident be kept confidential may speak with professional licensed counselors who provide mental health counseling on campus. Pastoral or clergy and medical professionals also have legally protected roles involving confidentiality. A list of confidential resources is available at the university's [Title IX website](#).
- (L) Non-confidential reporting and recordkeeping.
 - (1) Ohio law requires those not in a legally protected role with knowledge of a felony to report it to law enforcement. University personnel, including the Title IX coordinator, deputy Title IX coordinators, resident assistants and office of residence life and housing professional staff, are required to notify the university police department of any report of sexual harassment including interpersonal violence.
 - (2) Conduct reported to the university police that may be a Title IX violation will be reported to the Title IX coordinator. A report to the university police or other law enforcement agency does not require the pursuit of criminal charges. Neither the complainant nor the respondent is under any obligation to speak with the law enforcement authorities, even when the conduct is reported to them.
- (M) Conflict of interest. The Title IX coordinator, any investigator, decision-maker, or any person facilitating a process under this policy shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent specifically.
- (N) Miscellaneous

- (1) **Training.** Investigations and hearings are designed to provide a prompt, fair, and impartial resolution regarding an alleged violation of this policy disciplinary matter. All Title IX coordinators, investigators, decision-makers, advisors and appellate review officers, and any person who facilitates an informal resolution process are trained using appropriate materials that will not rely on sex stereotypes and will promote impartial, unbiased investigations and adjudications of complaints of Title IX sexual harassment.
- (2) **Prevention and education programs.** The university shall provide programs and/or training (collectively referred to as “trainings”) for employees and students designed to prevent and promote awareness of sexual harassment. The trainings shall be consistent with applicable legal requirements and university policies. The office of human resources, with oversight from the Title IX coordinator, or his/her designee, shall provide training for employees; and the office of student affairs, with oversight from the Title IX coordinator, or his/her designee, shall provide training for students. [Title IX website](#). For more information on Title IX and sexual misconduct, please see the university’s Title IX website.
- (3) **False allegations.** It is a violation of this policy for anyone to intentionally report information or allegations that they know, or reasonably should know, to be untrue or false. However, failure to prove an allegation is not equivalent to a false allegation.



**RESOLUTION TO MODIFY
SENSITIVE INFORMATION/INFORMATION SECURITY POLICY,
3356-4-13**

WHEREAS, University Policies are reviewed and reconceptualized on an ongoing basis; and

WHEREAS, this process can result in the modification of existing policies, the creation of new policies, or the deletion of policies no longer needed; and

WHEREAS, action is required by the Board of Trustees prior to replacing and/or implementing modified or newly created policies, or to rescind existing policies; and

WHEREAS, the Sensitive Information/Information Security policy has been reviewed pursuant to the five-year review cycle, and formatted in accordance with Policy 3356-1-09, Development and Issuance of University Policies.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University does hereby approve the modification of the University Policy Sensitive Information/Information Security, policy number 3356-4-13, shown as Exhibit __ attached hereto. A copy of the policy indicating changes to be made is also attached.

3356-4-13 Sensitive information/information security.

~~Previous Policy Number: 4012.01~~

Responsible Division/Office: Information Technology Services

Responsible Officer: Associate VP and Chief ~~Technology~~Information
Officer

Revision History: March 2009; June 2013; June 2015; June 2021

Board Committee: University Affairs

Effective Date: ~~June 17, 2015~~June 3, 2021

Next Review: ~~2020~~2026

- (A) Policy statement. Youngstown state university (“YSU” or “university”) creates and maintains sensitive information as part of normal operations. Appropriate safeguards and procedures protect the integrity, availability, and confidentiality of sensitive information. All university employees and individuals who have access to sensitive information have a responsibility to properly handle and secure such information.
- (B) Purpose. To establish guidelines for the identification and safeguarding of sensitive information (i.e., information that should not be disclosed within or beyond Youngstown state university without proper authorization and safeguards).
- (C) Scope. This policy applies to university employees (including student employees), customers, volunteers, vendors, contractors, board members, university affiliates, and any others who use or are ~~allowed~~granted -access to university sensitive information.
- (D) Definitions and information classifications (for the purposes of this policy).
- (1) “Sensitive information.” Information that the university has a legal, regulatory and/or business interest obligation to protect. Sensitive information transcends the medium on which it is stored or communicated and is sensitive regardless of whether it is in verbal, paper, electronic, or any other format.
 - (2) “Personal information.” Highly sensitive information that the university is required to protect often due to governing laws, including the Family Educational Rights and Privacy Act

(“FERPA”), [the](#) Gramm-Leach-Bliley Act (“GLBA”), [the](#) Health Insurance Portability and Accountability Act (“HIPAA”), and payment card industry data security standard (“PCI DSS”). Compromise of personal information has specific negative consequences and requires that the university take specific actions. This category encompasses information not freely available that can be associated with a particular individual, including:

- (a) Social security number.
 - (b) Credit card numbers.
 - (c) Driver’s license number.
 - (d) Date and place of birth.
- (3) “Confidential information.” Sensitive information having different degrees of sensitivity but still requiring that confidentiality must be maintained. Included is information that must be very closely safeguarded, such as:
- (a) Trade secrets.
 - (b) Employee benefit information.
 - (c) Student information (non-directory).
 - (d) Account passwords/personal identification numbers (“PINS”).
 - (e) Digitized signatures.
 - (f) Encryption keys.
 - (g) Medical records.
- (4) “YSU public information.” Information that has been specifically declared and approved as public by YSU. It includes information such as student directory information to the extent permitted under FERPA or records approved as public by the general counsel’s office in response to a public records request.

(E) Requirements.

- (1) Sensitive information must be physically ~~secure~~secured when not attended.
- (2) Sensitive information stored or transmitted electronically must be encrypted.
- (3) Sensitive information cannot be shared with unknown individuals claiming YSU association, who self-identify or reference known YSU individuals to establish their identity unless those references are checked.
- (4) Communication of sensitive information by an employee requires proper procedural safeguards and the written preapproval of the department supervisor/chair and division officer/dean.
- (5) Physical removal of sensitive information from YSU or its facilities requires proper procedural safeguards and the written preapproval of the department supervisor/chair and division officer/dean.
- (6) Storage of YSU-related sensitive information on personally owned electronic devices by an employee requires proper procedural safeguards and the written preapproval of the department supervisor/chair and division officer/dean.
- (7) All YSU employees are required to attend sensitive information and information security training.
- (8) Information technology services is responsible for establishing and maintaining university information security standards, manuals, and trainings.

(F) Procedures.

- (1) Take stock. Assess information in all formats to identify sensitive information. This is a responsibility of all employees having YSU-related information access.
- (2) Scale down. Keep only the information ~~that is needed~~required to perform your job responsibilities and as identified by the YSU records retention procedure. The need to store and/or communicate sensitive information requires written approval using the “Highly Sensitive Information Storage Request” form.
- (3) Lock it. Protect sensitive information in your care through actions including the following:
 - (a) Physically secure the information (e.g., lock physical spaces such as offices, cabinets, desks). Secure computers and other data storage devices with locks.
 - (b) Encrypt the information when it is stored electronically.
 - (c) Use only secured methods for transmitting sensitive information. (Note: email, internet, web and wireless transmissions are not secure for sensitive information by default, but steps can and must be taken to secure these methods of delivery.)
 - (d) Verify the requester’s identity and validity of requests for sensitive information communications.
- (4) Pitch it. Properly dispose of information not ~~needed~~required to perform job duties. Proper disposal techniques include shredding or ~~electronically wiping files~~securely erasing electronic files. Note that deleting files electronically and/or ~~reformatting drives~~simple reformatting of electronic media are not proper disposal techniques.
- (5) Plan ahead. Take positive measures to ensure proper response to potential sensitive information incidents. For example, know and document who has been granted access to what sensitive information. Have appropriate software installed on computers, cell phones, and other devices. Identify appropriate notification paths to pursue if sensitive information is compromised (including

the office of the general counsel if personal information is compromised). Use change in responsibilities and resources as an opportunity to begin again at paragraph ~~(G)(1)~~(F)(1) of this rule as part of continuous quality improvement planning.

3356-4-13 Sensitive information/information security.

Responsible Division/Office: Information Technology Services
Responsible Officer: Associate VP and Chief Information Officer
Revision History: March 2009; June 2013; June 2015; June 2021
Board Committee: University Affairs
Effective Date: June 3, 2021
Next Review: 2026

- (A) Policy statement. Youngstown state university (“YSU” or “university”) creates and maintains sensitive information as part of normal operations. Appropriate safeguards and procedures protect the integrity, availability, and confidentiality of sensitive information. All university employees and individuals who have access to sensitive information have a responsibility to properly handle and secure such information.
- (B) Purpose. To establish guidelines for the identification and safeguarding of sensitive information (i.e., information that should not be disclosed within or beyond Youngstown state university without proper authorization and safeguards).
- (C) Scope. This policy applies to university employees (including student employees), customers, volunteers, vendors, contractors, board members, university affiliates, and any others who use or are granted access to university sensitive information.
- (D) Definitions and information classifications (for the purposes of this policy).
 - (1) “Sensitive information.” Information that the university has a legal, regulatory and/or business interest obligation to protect. Sensitive information transcends the medium on which it is stored or communicated and is sensitive regardless of whether it is in verbal, paper, electronic, or any other format.
 - (2) “Personal information.” Highly sensitive information that the university is required to protect often due to governing laws, including the Family Educational Rights and Privacy Act (“FERPA”), the Gramm-Leach-Bliley Act (“GLBA”), the Health

Insurance Portability and Accountability Act (“HIPAA”), and payment card industry data security standard (“PCI DSS”). Compromise of personal information has specific negative consequences and requires that the university take specific actions. This category encompasses information not freely available that can be associated with a particular individual, including:

- (a) Social security number.
 - (b) Credit card numbers.
 - (c) Driver’s license number.
 - (d) Date and place of birth.
- (3) “Confidential information.” Sensitive information having different degrees of sensitivity but still requiring that confidentiality must be maintained. Included is information that must be very closely safeguarded, such as:
- (a) Trade secrets.
 - (b) Employee benefit information.
 - (c) Student information (non-directory).
 - (d) Account passwords/personal identification numbers (“PINS”).
 - (e) Digitized signatures.
 - (f) Encryption keys.
 - (g) Medical records.
- (4) “YSU public information.” Information that has been specifically declared and approved as public by YSU. It includes information such as student directory information to the extent permitted under FERPA or records approved as public by the general counsel’s office in response to a public records request.

(E) Requirements.

- (1) Sensitive information must be physically secured when not attended.
- (2) Sensitive information stored or transmitted electronically must be encrypted.
- (3) Sensitive information cannot be shared with unknown individuals claiming YSU association, who self-identify or reference known YSU individuals to establish their identity unless those references are checked.
- (4) Communication of sensitive information by an employee requires proper procedural safeguards and the written preapproval of the department supervisor/chair and division officer/dean.
- (5) Physical removal of sensitive information from YSU or its facilities requires proper procedural safeguards and the written preapproval of the department supervisor/chair and division officer/dean.
- (6) Storage of YSU-related sensitive information on personally owned electronic devices by an employee requires proper procedural safeguards and the written preapproval of the department supervisor/chair and division officer/dean.
- (7) All YSU employees are required to attend sensitive information and information security training.
- (8) Information technology services is responsible for establishing and maintaining university information security standards, manuals, and trainings.

(F) Procedures.

- (1) Take stock. Assess information in all formats to identify sensitive information. This is a responsibility of all employees having YSU-related information access.

- (2) Scale down. Keep only the information required to perform your job responsibilities and as identified by the YSU records retention procedure. The need to store and/or communicate sensitive information requires written approval using the “Highly Sensitive Information Storage Request” form.
- (3) Lock it. Protect sensitive information in your care through actions including the following:
 - (a) Physically secure the information (e.g., lock physical spaces such as offices, cabinets, desks). Secure computers and other data storage devices with locks.
 - (b) Encrypt the information when it is stored electronically.
 - (c) Use only secured methods for transmitting sensitive information. (Note: email, internet, web and wireless transmissions are not secure for sensitive information by default, but steps can and must be taken to secure these methods of delivery.)
 - (d) Verify the requester’s identity and validity of requests for sensitive information communications.
- (4) Pitch it. Properly dispose of information not required to perform job duties. Proper disposal techniques include shredding or securely erasing electronic files. Note that deleting files electronically and/or simple reformatting of electronic media are not proper disposal techniques.
- (5) Plan ahead. Take positive measures to ensure proper response to potential sensitive information incidents. For example, know and document who has been granted access to what sensitive information. Have appropriate software installed on computers, cell phones, and other devices. Identify appropriate notification paths to pursue if sensitive information is compromised (including the office of the general counsel if personal information is compromised). Use change in responsibilities and resources as an opportunity to begin again at paragraph (F)(1) of this rule as part of continuous quality improvement planning.



Explanation of Modifications to University Policy:

3356-7-48 Supplemental pay from externally funded grants, sponsored programs and contracts for faculty and professional/administrative staff.

The policy was modified to align with other institutions of higher education that limit supplemental compensation for incidental work for faculty during the academic year to twenty percent of the institutional base salary (IBS) and for department chairs to twenty percent of the annual salary. In addition, references to the faculty collective bargaining agreement (YSU/YSU-OEA CBA) were removed since this language is no longer in the CBA. Finally, the name of the Responsible Division/Office was updated.



**RESOLUTION TO MODIFY AND RETITLE
SUPPLEMENTAL PAY FROM EXTERNALLY FUNDED GRANTS,
SPONSORED PROGRAMS AND CONTRACTS FOR FACULTY AND
PROFESSIONAL/ADMINISTRATIVE STAFF POLICY, 3356-7-48**

WHEREAS, University Policies are being reviewed and re-conceptualized on an ongoing basis; and

WHEREAS, this process can result in the modification of existing policies, the creation of new policies, or the deletion of policies no longer needed; and

WHEREAS, action is required by the Board of Trustees prior to replacing and/or implementing modified or newly created policies, or to rescind existing policies;

WHEREAS, the Supplemental Pay from Externally Funded Grants, Sponsored Programs and Contracts for Faculty and Professional/Administrative Staff policy has been reviewed pursuant to the five-year review cycle, and formatted in accordance with Policy 3356-1-09, Development and Issuance of University Policies.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University does hereby approve the modification of the University Policy governing Supplemental Pay from Externally Funded Grants, Sponsored Programs and Contracts for Faculty and Professional/Administrative Staff, policy number 3356-7-48, to be retitled as Supplemental Pay from Externally Funded Grants, Sponsored Agreements and Contracts for Faculty and Professional/Administrative Staff, shown as Exhibit __ attached hereto. A copy of the policy indicating changes to be made is also attached.

3356-7-48 Supplemental pay from externally funded grants, sponsored ~~programs~~agreements and contracts for faculty and professional/ administrative staff.

Previous Policy Number: ~~7023.03~~

Responsible Division/Office: Office of Research Services

Responsible Officer: Provost and Vice President for Academic Affairs

Revision History: December 2008; December 2015; June 2021

Board Committee: University Affairs

Effective Date: ~~December 16, 2015~~ June 3, 2021

Next Review: ~~2020~~ 2026

- (A) Policy statement. Externally funded grants, sponsored agreements and contracts enable the university and its employees to participate in scholarly, creative activities. In support of these activities, it is necessary and appropriate to have employees perform services above and beyond their normal scope of duties and for those employees to receive pay for additional services.
- (B) Parameters. The sponsors of externally funded grant~~grants, awards~~ sponsored agreements and contracts establish guidelines and compliance requirements to serve their stakeholders and/or taxpayer public interests. All supplemental payment requests from externally funded grants, sponsored ~~programs~~agreements and contracts (through the office of research services) must be approved prior to the activities for which compensation is sought. The parameters and criteria defining salary compensation are determined by university policy, collective bargaining agreements, and federal compliance regulations.
- (1) Payment to faculty.
- (a) Per Title 2, C.F.R. 200.400 to 200.431, of the “Uniform Administrative Cost Requirements, Cost Principles, and Audit Requirements for Federal Awards,” ~~“Charges~~charges for work performed on Federal awards by faculty members during the academic year are allowable at the ~~IBS~~ [institutional base salary]-rate (hereinafter IBS). ~~Except as noted in paragraph (h)(1)(ii), in no event will charges~~ Charges to Federal awards, irrespective of the basis of

computation, will not exceed the proportionate share of the IBS for that period. ~~This principle applies to all members of faculty at an institution; see however exceptions in 200.430(h)(1)(ii).~~

- (b) ~~IHE~~ -IBS is defined as the annual compensation paid by an ~~IHE~~ ~~{institute of higher education}~~ (hereinafter IHE) for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award.²
- (c) Youngstown state university ("YSU") accepts the federal definition of "incidental work" as any work in excess of normal for the individual for which supplemental compensation is paid by the institution under institutional policy. ~~To be consistent with the faculty collective bargaining agreement between YSU and the Ohio education association (hereinafter referred to as "YSU/YSU-OEA-CBA"), compensation for incidental work is at the equivalent rate as overload pay. "Overload" refers to those activities beyond the standard twenty four workload hours during an academic year that are normally assigned. Based on YSU/YSU-OEA-CBA language, for overload, twelve workload hours are equivalent to the normal workload of a full-time faculty member normally employed for forty hours/week. Incidental work is paid at the rate as established in the approved budget of the externally funded grant, sponsored agreement or contract and follows the guidelines of the sponsoring agency or sponsor.~~
- ~~(b)~~(d) Faculty salary rate structure (for federal and ~~state grants~~ non-federal externally funded grants, sponsored agreements and contracts).

- (i) During the academic year, funds from external externally funded grant grants funds, sponsored agreements and contracts are used to provide workload reallocation (reassigned time or supplemental pay). A faculty member may receive supplemental pay for project activities that do not overlap with regular workload assignments or other ~~grant-externally funded project~~ related activities with appropriate documentation. Further additional compensation can be provided for those activities defined as “incidental work,” as described in paragraph ~~(B)(1)(b)(i)(B)(1)(c)~~ of this policy, and shall ~~be paid at a rate consistent with standard overload pay. “Overload” refers to those activities beyond the standard twenty four workload hours during an academic year that are normally assigned~~ not exceed twenty percent of the IBS per academic year.
- (ii) During the summer, faculty may receive up to three months of additional salary of their prior academic year’s (nine month) IBS, from externally funded grants, sponsored agreements and contracts. Summer supplemental pay may be received dependent upon guidelines of the federal and non-federal sponsoring agencies or sponsors, and may not be received by faculty while on leave from the university. It is the faculty’s responsibility to ensure that the total of summer pay of all sources (for teaching hours and research), results in no more than the maximum of three months allowed unless the department chair, dean and provost approve an exception in advance with appropriate documentation. ~~Dependent upon the guidelines of the federal grant sponsors, faculty may receive up to three months of additional salary. Supplemental pay from externally funded grants, sponsored programs, and contracts may not be received by faculty and professional/administrative staff while on leave from the university. Payments are to be at a rate based upon the individual’s IBS. This rate~~

~~structure may not exceed the university established base salary (according to Title 2, C.F.R. 200, the “Uniform Administrative Cost Requirements, Cost Principals, and Audit Requirements for Federal Awards”). The YSU/YSU OEA CBA specifies a maximum of nine teaching hours to be full-time for summer. For payment purposes in the summer, nine workload hours is considered full-time, with the nine hours being a combination of teaching hours plus research hours (hence, three credit hours is the equivalent of one month during the summer). Any additional compensation is based on the overload rate described in paragraph (B)(1)(a) of this policy for grant project activities with appropriate documentation.~~

~~(c) — Payments from private sources, including businesses. There are no upper salary rate limits on payments received from the private business sector. However, minimum payments may not be less than those charged to federal grants and contracts. During the academic year, sponsor funds will first be used to cover reassigned teaching time. Additional compensation during the academic year or summer will use a minimum of the prorated annual salary or the overload rate. The sponsored program agreement with a company must be preapproved and finalized through the associate vice president for research. Specific duties associated with this compensation cannot be the same or overlap with those funded by an existing, concurrent grant, sponsored program, or contract.~~

(2) Payment to full-time professional/administrative staff.

(a) Under most circumstances, full-time professional/administrative staff are not be eligible for supplemental pay since these employees have twelve-month, full-time appointments or salaried positions. Full-time professional/administrative staff cannot request supplemental pay compensation for any function that is part of their job description and duties and are not eligible for additional compensation for externally funded activities,

except when those activities may be classified as supplemental and incidental that is unrelated to their current duties, such as filling short-term staffing needs or in support of other unanticipated situations.

- (b) When supplemental compensation is to be paid, the rate of pay will be based on a prorated or equivalent hourly basis. Compensation is permitted and shall not exceed the lesser of twenty per cent of the annual salary or ten thousand dollars during any fiscal year. The specific duties and timeline on the externally funded grant or contract must be detailed clearly and preapproved.
- (c) Department chairs.
 - (i) During the summer terms, department chairs (having twelve-month appointments) may wish to undertake ~~grant-funded~~ work on externally funded grants, sponsored agreements and contracts that can generate supplemental pay during the summer terms. Chairs are permitted to receive ~~three workload hours~~ one month of salary at their respective faculty rate.
 - (ii) During the academic year, chairs may receive supplemental pay for incidental work for project activities during evenings and on weekends with appropriate documentation. Compensation shall not exceed twenty percent of the annual salary per fiscal year.
- (3) For further information on supplemental pay, see university policy 3356-7-46, "Supplemental Pay for Faculty and Professional/Administrative staff."
- (C) Procedures.
 - (1) Requests to make and/or receive supplemental compensation from an ~~external~~ externally funded grant, sponsored ~~program,~~ agreement or contract must be approved prior to any work being assigned or undertaken. The request for payment must be a justifiable

expenditure, as documented in the formal grant budget awarded by the external sponsoring agency or sponsor. In all cases, supplemental compensation to faculty, administrative staff, and department chairs is subject to the approval by their respective dean, unit head, vice president, or the provost. The principal investigator (“PI”) authorizes payment to an employee on a “~~Request for~~ Grant-Funded Supplemental Pay” form, which must be submitted to the ~~associate vice president for research~~ office of research services/director of research services for approval prior to any externally funded grant-work, sponsored agreement or contract being initiated.

- (2) Both the PI and the payee attest that the activities for supplemental compensation were performed as described. The PI and payee are expected to document their times spent on federally funded grant activities, as instructed by the office of research services and the office of grants accounting. The university will develop and maintain the necessary administrative procedures to process and manage supplemental payments.

3356-7-48 Supplemental pay from externally funded grants, sponsored agreements and contracts for faculty and professional/administrative staff.

Responsible Division/Office: Office of Research Services
Responsible Officer: Provost and Vice President for Academic Affairs
Revision History: December 2008; December 2015; June 2021
Board Committee: University Affairs
Effective Date: June 3, 2021
Next Review: 2026

- (A) Policy statement. Externally funded grants, sponsored agreements and contracts enable the university and its employees to participate in scholarly, creative activities. In support of these activities, it is necessary and appropriate to have employees perform services above and beyond their normal scope of duties and for those employees to receive pay for additional services.
- (B) Parameters. The sponsors of externally funded grants, sponsored agreements and contracts establish guidelines and compliance requirements to serve their stakeholders and/or taxpayer public interests. All supplemental payment requests from externally funded grants, sponsored agreements and contracts (through the office of research services) must be approved prior to the activities for which compensation is sought. The parameters and criteria defining salary compensation are determined by university policy, collective bargaining agreements, and federal compliance regulations.
- (1) Payment to faculty.
- (a) Per Title 2, C.F.R. 200.400 to 200.431, of the “Uniform Administrative Cost Requirements, Cost Principles, and Audit Requirements for Federal Awards,” charges for work performed on Federal awards by faculty members during the academic year are allowable at the institutional base salary rate (Hereinafter IBS). Charges to Federal awards, irrespective of the basis of computation, will not exceed the

proportionate share of the IBS for that period: see however exceptions in 200.430(h)(1)(ii).

- (b) IBS is defined as the annual compensation paid by an institute of higher education (hereinafter IHE) for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award.
- (c) Youngstown state university ("YSU") accepts the federal definition of "incidental work" as any work in excess of normal for the individual for which supplemental compensation is paid by the institution under institutional policy. Incidental work is paid at the rate as established in the approved budget of the externally funded grant, sponsored agreement or contract and follows the guidelines of the sponsoring agency or sponsor.
- (d) Faculty salary rate structure (for federal and non-federal externally funded grants, sponsored agreements and contracts).
 - (i) During the academic year, funds from externally funded grants, sponsored agreements and contracts are used to provide workload reallocation (reassigned time or supplemental pay). A faculty member may receive supplemental pay for project activities that do not overlap with regular workload assignments or other externally funded project-related activities with appropriate documentation. Further additional compensation can be provided for those activities defined as "incidental work," as described in paragraph (B)(1)(c) of this policy, and shall not exceed twenty percent of the IBS per academic year.

- (ii) During the summer, faculty may receive up to three months of additional salary of their prior academic year's (nine month) IBS, from externally funded grants, sponsored agreements and contracts. Summer supplemental pay may be received dependent upon guidelines of the federal and non-federal sponsoring agencies or sponsors, and may not be received by faculty while on leave from the university. It is the faculty's responsibility to ensure that the total of summer pay of all sources (for teaching hours and research), results in no more than the maximum of three months allowed unless the department chair, dean and provost approve an exception in advance with appropriate documentation.
- (2) Payment to full-time professional/administrative staff.
 - (a) Under most circumstances, full-time professional/administrative staff are not be eligible for supplemental pay since these employees have twelve-month, full-time appointments or salaried positions. Full-time professional/administrative staff cannot request supplemental pay compensation for any function that is part of their job description and duties and are not eligible for additional compensation for externally funded activities, except when those activities may be classified as supplemental and incidental that is unrelated to their current duties, such as filling short-term staffing needs or in support of other unanticipated situations.
 - (b) When supplemental compensation is to be paid, the rate of pay will be based on a prorated or equivalent hourly basis. Compensation is permitted and shall not exceed the lesser of twenty per cent of the annual salary or ten thousand dollars during any fiscal year. The specific duties and timeline on the externally funded grant or contract must be detailed clearly and preapproved.
 - (c) Department chairs.

- (i) During the summer terms, department chairs (having twelve-month appointments) may wish to undertake work on externally funded grants, sponsored agreements and contracts that can generate supplemental pay during the summer terms. Chairs are permitted to receive one month of salary at their respective faculty rate.
 - (ii) During the academic year, chairs may receive supplemental pay for incidental work for project activities during evenings and on weekends with appropriate documentation. Compensation shall not exceed twenty percent of the annual salary per fiscal year.
 - (3) For further information on supplemental pay, see university policy 3356-7-46, "Supplemental Pay for Faculty and Professional/Administrative staff."
- (C) Procedures.
- (1) Requests to make and/or receive supplemental compensation from an externally funded grant, sponsored agreement or contract must be approved prior to any work being assigned or undertaken. The request for payment must be a justifiable expenditure, as documented in the formal grant budget awarded by the external sponsoring agency or sponsor. In all cases, supplemental compensation to faculty, administrative staff, and department chairs is subject to the approval by their respective dean, unit head, vice president, or the provost. The principal investigator ("PI") authorizes payment to an employee on a "Grant-Funded Supplemental Pay" form, which must be submitted to the office of research services/director of research services for approval prior to any externally funded grant, sponsored agreement or contract being initiated.
 - (2) Both the PI and the payee attest that the activities for supplemental compensation were performed as described. The PI and payee are expected to document their times spent on federally funded grant activities, as instructed by the office of research services and the office of grants accounting. The university will develop and

maintain the necessary administrative procedures to process and manage supplemental payments.



**RESOLUTION TO AUTHORIZE CONFERRAL OF EMERITUS STATUS
FOR FACULTY AND ADMINISTRATORS**

WHEREAS, the Policies of the Board of Trustees provide for the conferral of emeritus status upon University faculty and professional/administrative staff members upon retirement or death following at least ten years of meritorious service and are recommended by the President of the University; and

WHEREAS, in accordance with University Policy 3356-7-17, Emeritus Status, this resolutions nominates seven recently retired faculty members for Faculty Emeritus Status, and five recently retired administrators for Administrator Emeritus Status, and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University does hereby authorize that those faculty and professional/administrative staff members listed in Exhibit List A and List B attached hereto respectively, are hereby granted the emeritus title designed thereon.

FACULTY RECEIVING EMERITUS STATUS

(Board of Trustees Meeting, June 3, 2021)

NAME	TITLE	YEARS of SERVICE	STATUS
Frank J. Bosso	Professor Health Professions: Kinesiology and Sport Science	26	Faculty Emeritus
Jolien A. Helsel	Assistant Professor Economics	16	Faculty Emeritus
Daniel J. O'Neill	Professor Communication	52	Faculty Emeritus
David H. Pollack	Associate Professor Mathematics and Statistics	30	Faculty Emeritus
Fred W. Viehe	Professor History	34	Faculty Emeritus
Gary R. Walker	Professor Chemical and Biological Sciences	25	Faculty Emeritus
George T. Yates	Professor Mathematics and Statistics	18	Faculty Emeritus

**ADMINISTRATIVE STAFF
RECEIVING EMERITUS STATUS**

(Board of Trustees Meeting, June 3, 2021)

NAME	TITLE	YEARS of SERVICE	STATUS
Frank Akpadock	Senior Research Associate Center for Urban and Regional Studies	28	Administrator Emeritus
Karen A. Becker	Director, First Year Experience Student Success	23	Administrator Emeritus
Michael A. Hripko	AVP for External Affairs, Government Relations and Economic Development Center for Urban and Regional Studies	10	Administrator Emeritus
Greg K. Moring	Associate Dean CCAC Dean – Cliffe College of Creative Arts	24	Administrator Emeritus
Susan M. Viglione	Risk Management Officer Environmental and Occupational Health and Safety	42	Administrator Emeritus

3356-7-17 Emeritus status.

Responsible Division/Office: Human Resources
Responsible Officer: VP for Legal Affairs and Human Resources
Revision History: November 1997; October 2010; September 2015;
December 2020
Board Committee: University Affairs
Effective Date: December 3, 2020
Next Review: 2025

- (A) Policy statement. The board of trustees of Youngstown state university (university) may confer the title “emeritus” upon university faculty and executive and administrative officers upon retirement or posthumously in recognition of long and meritorious service.
- (B) Definition. The designation “faculty emeritus” or “administrator emeritus” is an honorary title conferred upon the retirement or death of faculty or staff members in recognition of extended meritorious service.
- (C) Procedures.
- (1) With the exception of the university president, nominations for the conferral of emeritus status will follow the “Emeritus Nomination Guidelines” and utilize the “Emeritus Nomination” form (available on the office of human resources benefits webpage).
 - (2) In the event of retirement or death of the university president, the board of trustees may, in its discretion, confer emeritus status upon the individual.
 - (3) Emeritus status is conferred and presented at the spring meeting of the board of trustees.
 - (4) An individual can only be nominated once for conferral of emeritus status.
 - (5) If emeritus status is conferred, the individual will receive the title of “faculty emeritus” or “administrator emeritus.”

- (D) Eligibility. Nomination of an individual to be considered for the conferral of emeritus status should be based upon the following factors: length of service (typically totaling more than ten years); the overall quality of that service; the contribution to the university; and the service to society beyond the university community.
- (E) Emeritus privileges.
- (1) Those retirees achieving emeritus status are granted the following privileges: full library privileges; email services; university identification card; opportunity to secure parking consistent with current university procedures; and the same educational benefits that are available to currently employed faculty or staff at the time of application. (See university policy 3356-7-31, “Fringe benefits, excluded professional/administrative employees fee remission program.”)
 - (2) Those retirees achieving emeritus status also have the opportunity to: purchase reserved seats to intercollegiate athletic contests and performing arts events; utilize designated recreational facilities and wellness programs; attend certain alumni and university events, e.g., homecoming events, holiday breakfast, commencement, and honors convocation, and join the Youngstown state university retirees’ association.
 - (3) Retirees that attain emeritus status also have the opportunity to select one of two parking options. They may purchase a permit for designated lots or may choose to receive a free parking permit at the discretion of the university based upon availability.
 - (4) Those bargaining unit member retirees achieving emeritus status are granted the benefits in accordance with their collective bargaining agreement as well as any additional benefits provided herein.
- (F) Revocation of emeritus status. Emeritus status may be revoked by the board of trustees at the request of the recipient or for good cause. Good cause includes, but is not limited to, an award based on misleading or deceptive information or for egregious conduct which diminishes the status or reputation of Youngstown state university.



**RESOLUTION TO RATIFY
PERSONNEL ACTIONS**

WHEREAS, the *Policies of the Board of Trustees* authorize the President to manage the University, including appointing such employees as are necessary to effectively carry out the operation of the University and any other necessary personnel actions; and

WHEREAS, new appointments and other personnel actions have been made subsequent to the March 4, 2021, meeting of the Board of Trustees; and

WHEREAS, such personnel actions are in accordance with the 2020-2021 Budget and with University policies 3356-2-02, Equal Opportunity and Affirmative Action Recruitment and Employment; 3356-9-02, Selection and Annual Evaluation of Administrative Officers of the University; 3356-7-42, Selection of Professional/Administrative Staff; and 3356-7-43, Externally Funded Professional/Administrative Staff;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of Youngstown State University does hereby ratify and confirm the personnel actions as listed in Exhibit ___ attached hereto.

**Board of Trustees Meeting
June 3, 2021
YR 2021-**

SUMMARY OF PERSONNEL ACTIONS
Professional Administrative and Faculty Employees
1/16/21 through 4/15/21

Appointments – 11

New Positions – 8 *(Notated with an asterisk *)*

- Professional Administrative Staff – 2
- Professional Administrative Excluded – 1
- Professional Administrative Externally Funded – 4
- Faculty – 1

Replacement Positions – 3

- Professional Administrative Staff – 1
- Professional Administrative Excluded – 2

Separations – 8

- Professional Administrative Staff – 4
- Professional Administrative Excluded – 3
- Faculty – 1

Reclassifications/Position Adjustments – 7

- Professional Administrative Staff – 2
- Professional Administrative Excluded – 5

Promotions – 4

- Professional Administrative Staff – 1
- Professional Administrative Excluded – 2
- Professional Administrative Externally Funded – 1

Salary Adjustments – 4

- Professional Administrative Staff – 3
- Professional Administrative Excluded – 1

YOUNGSTOWN STATE UNIVERSITY
PROFESSIONAL ADMINISTRATIVE AND FACULTY
PERSONNEL ACTIONS 1/16/21 THROUGH 4/15/21
APPOINTMENTS

EMPLOYEE NAME	EMPLOYEE TYPE	POSITION TITLE	DEPARTMENT	CONTRACT/ APPOINTMENT DATES	FTE	SALARY
Drennen, Bryan	APAS	Network Engineer	IT Infrastructure Services	4/5/2021	1.00	\$ 73,488.00
Minotti, Armand*	APAS	Assistant Director Marketing	Marketing & Communications	2/16/2021	1.00	\$ 50,000.00
Ware, Johnny*	APAS	Coordinator Student Enrichment and Diversity Programs	Honors College	1/19/2021	1.00	\$ 39,000.00
Korda, Dalton	Excluded	Temporary Coordinator	Housing	3/8/2021	1.00	\$ 39,519.90
Nolasco, Francisco	Excluded	Temporary Academic Advisor 2	Dean Cliffe College of Creative Arts	4/12/2021	1.00	\$ 38,556.00
Pieren, Jennifer*	Excluded	Temporary Program Administrator	Health Professions	3/29/2021	1.00	\$ 65,000.00
Burton, Shawntae*	Externally Funded	Outreach Coordinator ADMETE	Civil Environmental & Chemical Engineering	2/16/2021	1.00	\$ 44,473.00
Ekstrand, Lindsey*	Externally Funded	Manager Workforce Education Programs	Center for Workforce Education & Innovation	4/1/2021	1.00	\$ 80,000.00
Shepas, Richard*	Externally Funded	Director Workforce Development	Center for Workforce Education & Innovation	3/16/2021	1.00	\$ 120,000.00
Stephen, Katie*	Externally Funded	Clinical Counselor	Student Counseling Services	1/19/2021	1.00	\$ 51,000.00
Walter, Phillip*	Faculty	Lecturer	Electrical Engineering	1/18/2021	1.00	\$ 58,000.00
*New Positions						

YOUNGSTOWN STATE UNIVERSITY
PROFESSIONAL ADMINISTRATIVE AND FACULTY
PERSONNEL ACTIONS 1/16/21 THROUGH 4/15/21
SEPARATIONS

EMPLOYEE NAME	EMPLOYEE TYPE	POSITION TITLE	DEPARTMENT	DATE OF SEPARATON	FTE	SALARY	SEPARATION TYPE
Adair, Danielle	APAS	Operations Manager	Kilcawley Center	3/29/2021	1.00	\$ 39,631.08	Resigned
Evans, Nicole	APAS	Coordinator Grant Funds	Controller's Office	4/9/2021	1.00	\$ 49,913.19	Resigned
Hanni, Michael	APAS	Coordinator Student Conduct Residence Life	Housing	2/16/2021	1.00	\$ 40,659.24	Deceased
Hartman, Christopher	APAS	Broadcast Engineer	WYSU - FM	2/15/2021	1.00	\$ 43,467.35	Resigned
Gaffney, David	Excluded	Facilities Engineer	Facilities Maintenance	1/29/2021	1.00	\$ 75,719.70	Resigned
Kralj, Kevin	Excluded	Director Labor Employee Relations	Human Resources	2/28/2021	1.00	\$ 100,444.50	Resigned
Myers, Vaughn	Excluded	Associate Director	Kilcawley Center	2/19/2021	1.00	\$ 54,455.35	Resigned
Walker, Jason	Faculty	Assistant Professor	Rayen School of Engineering - Mechanical Engineering	3/7/2021	1.00	\$ 74,594.00	Resigned

YOUNGSTOWN STATE UNIVERSITY
PROFESSIONAL ADMINISTRATIVE AND FACULTY
PERSONNEL ACTIONS 1/16/21 THROUGH 4/15/21
RECLASSIFICATIONS/POSITION ADJUSTMENTS

EMPLOYEE NAME	EMPLOYEE TYPE	NEW POSITION TITLE/ OLD POSITION TITLE	NEW DEPARTMENT/ OLD DEPARTMENT	CONTRACT/ APPOINTMENT DATES	FTE	NEW SALARY	PREVIOUS SALARY
Kaufman, Alison	APAS	Assistant Director/ Coordinator	Assessment	11/16/2020	1.00	\$ 60,191.00	\$ 53,591.00
Rager, Lexi	APAS	Assistant Director/ Coordinator Student Recruitment & Engagement	Honors College	3/16/2021	1.00	\$ 42,294.00	\$ 40,280.00
Byers, Joy	Excluded	Associate Vice President/ Executive Director	Student Experience/Campus Recreation	2/1/2021	1.00	\$ 101,000.00	\$ 81,946.03
Cole, Ronald	Excluded	Director and Assistant to Board Secretary/Public Information Officer	Marketing & Communications	3/1/2021	1.00	\$ 80,079.26	\$ 74,147.46
Hartup, Mollie	Excluded	Associate Director/Coordinator	Honors College	3/16/2021	1.00	\$ 56,582.45	\$ 51,438.59
Kent-Strollo, Nicole	Excluded	Dean of Students Ombudsperson/ Director Student Outreach Support	Dean of Students/ Student Experience	2/1/2021	1.00	\$ 99,000.00	\$ 58,206.30
Ruse, Elaine	Excluded	Associate Vice President/ Executive Director	Student Enrollment & Business Services/ Student Enrollment Services	2/1/2021	1.00	\$ 129,355.00	\$ 118,555.42

YOUNGSTOWN STATE UNIVERSITY
PROFESSIONAL ADMINISTRATIVE AND FACULTY
PERSONNEL ACTIONS 1/16/21 THROUGH 4/15/21
PROMOTIONS

EMPLOYEE NAME	NEW EMPLOYEE TYPE/OLD EMPLOYEE TYPE	NEW POSITION TITLE/OLD POSITION TITLE	NEW DEPARTMENT/OLD DEPARTMENT	CONTRACT APPT. DATES	FTE	NEW SALARY	PREVIOUS SALARY
Blandine, Taylor	APAS/ Classified Excluded	Athletic Academic Advisor/Intermittent Academic Support Specialist	Academic Counseling/Student Athlete Affairs Program & Football	3/16/2021	1.00	\$ 40,000.00	\$ 19,510.40
Donaldson, Rosalyn	Excluded	Director ACT Program Manager/Manager	IT Customer Services	2/16/2021	1.00	\$ 89,500.00	\$ 77,780.10
Fuhrman, Hillary	Excluded	Assistant Provost Teaching Learning/ Interim Director	Institute for Teaching & Learning	3/1/2021	1.00	\$ 89,500.00	\$ 76,191.08
Boerio, Gregory	Externally Funded	Executive Director/ Associate Director	Rich Center for Autism	2/16/2021	1.00	\$ 95,931.00	\$ 85,833.00

YOUNGSTOWN STATE UNIVERSITY
PROFESSIONAL ADMINISTRATIVE AND FACULTY
PERSONNEL ACTIONS 1/16/21 THROUGH 4/15/21
SALARY ADJUSTMENTS

EMPLOYEE NAME	EMPLOYEE TYPE	POSITION TITLE	DEPARTMENT	CONTRACT/ APPOINTMENT DATES	NEW FTE	NEW SALARY	OLD FTE	PREVIOUS SALARY
Rager, Lexi	APAS	Coordinator Student Recruitment & Engagement	Honors College	1/16/2021	1.00	\$ 40,280.00	1.00	\$ 39,780.00
Stone Wolbrecht, Tiffany	APAS	Planetarium Lecturer	Ward Beecher Planetarium	3/16/2021	1.00	\$ 41,475.96	0.50	\$ 20,737.98
Wolfgang, Susan	APAS	Coordinator Preclinical TESOL Placement	Student Field Experiences	2/16/2021	0.75	\$ 37,780.29	0.50	\$ 25,186.86
Belgin, Heather	Excluded	Associate Director Alumni Events	Alumni & Events Operations	3/1/2021	1.00	\$ 61,283.42	0.75	\$ 45,962.56