**3356-2-03.1 Sexual misconduct policy.**

Responsible Division/Office: Equal Opportunity and Policy Development

Responsible Officer: Director of Equal Opportunity/Policy Development

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Board Committee: University Affairs

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(A) Policy statement. Youngstown state university (“YSU” or “university”) is committed to fostering and maintaining an environment of tolerance, mutual respect, and concern for all members of the campus community. Consistent with these values and applicable law, including Title IX of the Education Amendments of 1972, the university prohibits and will not tolerate sexual misconduct in any university program or activity. The university will take appropriate steps to eliminate sexual assault and misconduct, prevent its recurrence, and address its effects.

(B) Purpose. To provide university community with a clearly articulated set of behavioral standards, common understandings of definitions, descriptions of prohibited conduct, relevant information, and reporting options in order to foster a climate free from sexual misconduct.

(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, regardless of sexual orientation or gender identity, and whether on or off campus.

(D) Definitions (for purposes of this policy).

1. “Sexual misconduct.” A broad range of behaviors including sexual assault, dating violence, domestic violence, stalking, voyeurism, and any other conduct of a sexual nature that is nonconsensual or is carried out through force, threat, intimidation or coercion. (For purposes of this policy, conduct prohibited under this policy shall generally be referred to as “sexual misconduct”).

(2) “Sexual assault.” Any intentional, nonconsensual and/or coerced sexual contact. Physical resistance need not occur to meet the definition of sexual assault.

(3) “Consent.” Sexual activity requires consent, which is defined as positive, unambiguous, voluntary and ongoing agreement to engage in a specific activity. Consent must be freely and affirmatively given. Consent cannot be obtained from someone through coercion or from someone who is unconscious, asleep, or whose judgment is impaired by the use of a drug or alcohol or diminished by an intellectual, mental, or physical condition or disability. Consent can be withdrawn at any time.

(4) “Coercion.” Intimidation, physical, or psychological threat, or pressure used to force another to engage in sexual acts.

(5) “Stalking.” Repeated behaviors or activities whether in person, online, or through any other means which threaten or endanger the safety, physical or mental health, life or property of another or creates a reasonable fear of such threat or action.

(6) “Dating violence.” Violence or abusive behavior (sexual, physical, or threat of 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 is determined based on a consideration of the length and type of relationship and the frequency of interaction between the persons involved in the relationship.

(7) “Domestic violence.” Violence or abusive behavior (sexual, physical, or threat of violence) used to maintain control or power within a current or former relationship and which is committed by any of the following:

(a) A current or former spouse or intimate partner of the victim;

(b) A person with whom the victim shares a child in common;

(c) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;

(d) By any other person against an adult or youth victim under the domestic or family violence laws of the state of Ohio (see section 2919.25 of the Revised Code).

(8) “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.

(9) “Sex offenses.” See Chapter 2907. of the Revised Code which defines “sex offenses” under Ohio law.

(E) Coordination with discrimination/harassment policy. The university recognizes that in certain circumstances harassment/discrimination related to an individual’s race, color, national origin, sex, sexual orientation, gender identity and/or expression, disability, age, religion, or veteran/ military status may occur in conjunction with sexual misconduct. Targeting individuals on the basis of these characteristics is a violation of rule 3356-2-03 of the Administrative Code. In these circumstances, the university will coordinate its responses and efforts in order to address these issues.

(F) Privacy versus confidentiality. Privacy and confidentiality have distinct meanings under this policy.

(1) “Privacy.” Privacy generally means that information related to a report of sexual misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those university employees who need to know in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

(2) “Confidentiality.” Confidentiality means that information shared by an individual with a particular campus or community professional cannot be revealed to any other individual without the express permission of the individual. These professionals include medical and mental health providers, ordained clergy, and rape crisis counselors. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.

(G) Reporting. The university encourages anyone who has experienced sexual misconduct to report the incident to the reporting source of their choice in order to obtain information and support and so the university can respond appropriately. Prompt reporting may preserve options that delayed reporting does not, including the preservation of physical evidence, crisis counseling, and immediate police response. Additionally, delayed reporting may affect the options available to the individual and the university.

1. “Confidential reporting.” 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. Confidential services are available on campus (see paragraph (M)(1) of this policy) at counseling services in Jones hall, room 3009, phone number 330-941-3737; student health services in Kilcawley house, first floor, phone number 330-941-3489; and through the employee assistance program, phone number 800-227-6007.

(2) “Responsible employees and mandatory reporting.” Under Title IX, the university is required to take immediate and corrective action if a responsible employee knew or in the exercise of reasonable care should have known about sexual misconduct or sex based discrimination or harassment that creates a hostile environment. A responsible employee is an employee who:

1. Has the authority to take action to redress the harassment;

(b) Has been given the duty to report to appropriate university officials any misconduct by students, employees or third parties; or

(c) An individual could reasonably believe has the authority or responsibility to take action.

Employees with supervisory and leadership responsibilities on campus are considered responsible employees and include, but are not limited to, managers, supervisors, directors, assistant/associate directors, faculty members with supervisory or advisory duties over students or employees (including student employees), resident assistants, program coordinators, coaches, deans and department chairs. A responsible employee is considered a mandatory reporter under this policy and when he or she becomes aware of sexual misconduct must notify the Title IX coordinator promptly but no later than five working days of becoming aware of the information. When a responsible employee is contacted by a student regarding possible sexual misconduct, the responsible employee must inform the student of the responsible employee’s reporting requirement.

For purposes of this policy, faculty members who solely provide classroom instruction with no student or employee supervisory or advisory duties are not considered responsible employees under this policy; however, they are strongly encouraged to report an alleged occurrence of sexual misconduct as well.

(3) Filing a complaint with the university’s Title IX coordinator.

1. Individuals who believe they have been subjected to or who reasonably believe sexual misconduct has occurred should contact the Title IX coordinator for information and/or to file a complaint. The Title IX coordinator, or his/her designee, will make an assessment of any risk of harm to individuals or to the campus community and will take reasonable steps necessary, including interim protective measures, and to provide for the safety of individuals involved and the campus community. Thereafter, the Title IX coordinator, or his/her designee, will conduct an investigation depending on a variety of factors, including but not limited to, the reporting individual’s wish to pursue an investigation, the risk posed to the individuals involved and the campus community by not proceeding, whether there have been other complaints of sexual misconduct involving the same alleged individual(s), and the nature of the allegation.

(b) To promote timely and effective review and investigation, complaints of possible sexual misconduct should be made immediately or as soon as reasonably possible. The Title IX coordinator will review a compliant whenever it is made; however, a lapse of time may make it more difficult to gather relevant and reliable information and to address the behavior. Complaints involving potential Title IX violations will follow the Title IX grievance procedures which are available on the university’s [Title IX](http://www.ysu.edu/title-ix) webpage.

(4) Student conduct process. If the alleged perpetrator of sexual misconduct is a student, an individual may seek resolution through the student conduct process. A report to the office of student conduct (phone number 330-941-4703) can be made regardless of whether or not a criminal complaint is pursued. For a more comprehensive review of the student code of conduct, including timeliness of reporting, please go to the [office of student conduct](https://cms.ysu.edu/administrative-offices/student-conduct/welcome-office-student-conduct) webpage.

(5) Law enforcement.

(a) Individuals who are victims of sexual misconduct are strongly encouraged to contact the [Youngstown state university policy department](http://cms.ysu.edu/administrative-offices/police/ysu-police) (“university police”) in order to receive information and to pursue criminal charges. The university police can be contacted at 330-941-3527 (campus emergencies, dial 911). Reports can also be made to the city of Youngstown police department at 330-747-7911 or 911.

(b) An individual who does not wish to pursue action within the criminal justice system should still consider making a report to the university police department. The university police can file a report on the details of an incident without revealing the identity of the victim. This allows the university to take steps pursuant to the Clery Act to keep reports.

(6) The university as reporting party. On some occasions, the university will assume the function of the reporting party. This approach may be taken when sufficient information is provided that allows the university to reach the threshold determination that an individual poses a substantial and likely threat of harm to the safety or well-being of an individual, members of the campus community, or the performance of normal university functions.

(7) Anonymous reporting. Although the university encourages victims to talk to someone, the university provides online anonymous reporting options. Individuals may file an anonymous report with the university police at the [YSU police](http://cms.ysu.edu/administrative-offices/police/ysu-police) website, with the Title IX coordinator at the [Title IX](http://www.ysu.edu/title-ix) website, or by contacting the [office of student conduct](https://cms.ysu.edu/administrative-offices/student-conduct/welcome-office-student-conduct).

(H) Interim measures. The Title IX coordinator, office of student life (phone number 330-941-4703) and/or the office of human resources can assist an individual who has been subjected to sexual misconduct with appropriate interim measures that are reasonably available to alleviate the presence of a hostile environment. These measures can be taken regardless of whether an individual chooses to formally report an incident or crime and can include no-contact orders, changes in housing, work schedules, or assignments, and interim suspensions or administrative leaves. Failure to comply with interim measures is a violation of this policy and may result in corrective measures, even if the initial report of sexual misconduct is later not proven.

(I) Non-retaliation. Retaliation against any individual in the university community either for alleging sexual assault or misconduct or for cooperating in the review or investigation of a compliant is strictly prohibited by university policy and state and federal law. Anyone who believes he/she has been the victim of retaliation should immediately contact the office of equal opportunity and policy compliance or the office of human resources. Any person found to have retaliated against another for reporting, participation, or cooperation in an investigation will be in violation of this policy and will be subject to corrective measures independent of the merits of the underlying allegation.

(J) 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 misconduct. 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.

(K) 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 and no person shall be penalized for good faith reporting of concerns under this policy.

(L) Consequences of violations of this policy. Any employee or student who violates this policy will be subject to corrective action, consistent with university policies and applicable collective bargaining agreements and conduct codes. Corrective action can include termination for employees and expulsion for students. Third parties who violate this policy will be subject to appropriate university action, including but not limited to removal from university property and criminal prosecution.

(M) Support and assistance.

(1) On-campus contacts:

(a) [YSU counseling services](https://cms.ysu.edu/administrative-offices/counseling-services/student-counseling-services), Jones hall, room 3009, contact 330-941-3737. The [employee assistance program](https://cms.ysu.edu/administrative-offices/human-resources/employee-assistance-program-eap), contact 1-800-227-6007.

(b) [Student health services](http://cms.ysu.edu/administrative-offices/student-health/student-health) at Kilcawley house, first floor (must enter from University Plaza side), contact 330-941-3489.

(c) YSU police department, contact 330-941-3527 (24-hour line). Campus emergencies, dial 911.

(d) YSU [Title IX](http://www.ysu.edu/title-ix) coordinator, Cynthia A. Kravitz, Tod hall, room 301, Youngstown, Ohio 44555; contact 330-941-2216 or 330-941-2340; fax number is 330-941-2394; email address, cakravitz@ysu.edu.

(e) To be escorted to/from vehicle or classes, contact [YSU student security services](https://cms.ysu.edu/administrative-offices/police/ysu-student-security-service), sponsored by YSU police department, at 330-941-1515.

(2) Off-campus contacts.

(a) [Ohio hopes, rape crisis and counseling center of Mahoning county](http://ohiohopes.org/resources/rape-crisis-and-counseling-center-of-mahoning-county-of-the-compass-family-and-community-services-2/), contact 330-782-3936 (twenty-four-hour hotline).

(b) Rape, abuse, and incest national network, visit the [RAINN](https://centers.rainn.org/) website.

(c) [Mercy health – St. Elizabeth Youngstown hospital](https://www.mercy.com/youngstown/locations/hospitals/mercy-health-st-elizabeth-youngstown-hospital), contact 330-746-7211 (twenty-four-hour medical services).

(d) [Northside medical center](https://northsidemedicalcenter.org/), contact 330-884-1000 (twenty-four-hour medical services).

(3) [Title IX](http://www.ysu.edu/title-ix) website. For more information on Title IX and sexual misconduct, please visit the university’s [Title IX](http://www.ysu.edu/title-ix) website.