

NON-DISCRIMINATION & ANTI-HARASSMENT

PURPOSE

The purpose of this policy is to ensure compliance with the new Title IX regulations effective August 14, 2020 as set forth by the U.S. Department of Education.

POLICY STATEMENT

This policy prohibits discrimination and harassment on the basis of age, color, disability, national origin, race, religion, sex (including sexual harassment), sexual orientation, gender identity, military status, or veteran status, status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, status as a foster parent, or genetic information.

This policy also prohibits retaliation against an individual for reporting discrimination or harassment, or for participating in an investigation.

This policy shall not be construed or applied to restrict academic freedom at the College, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant, or even hateful.

The College recognizes and protects full freedom of inquiry, teaching, research, discussion, study, publication, and for artists, the creation and exhibition of works of art, without hindrance, restriction, equivocation, or reprisal. This right extends to other facets of campus life to include the right of a faculty member or student to speak on general educational questions or about the College. In addressing all complaints and reports under this policy, the College will take all permissible actions to ensure the safety of students and employees while complying with free speech requirements for students and employees. While the College will protect students' and employees' rights against discrimination, including but not limited to sex discrimination, under this policy, this policy does not apply to curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

APPLICATION

This policy and associated procedures are applicable to all aspects of College operations and programs. It applies to the admissions and employment practices of the College. It applies to all staff, faculty (bargaining and non-bargaining unit members), and students, as well as to visitors or guests on campus to the extent that there is an allegation of prohibited conduct, as defined by this policy, made by them against College students or employees. It also applies to all third-party vendors, contractors, subcontractors, and others who do business with the College. The prohibitions of this policy extend to prohibited conduct, which occurs within Edison State's education programs or activities against a person in the United States.

Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

PROHIBITED CONDUCT

A. Non Sex-Based (Is NOT applicable under Federal Title IX Regulations)

- 1. Discrimination**—Discrimination is conduct that is based upon an individual's race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, age, political ideas, marital or family status, physical or mental disability, genetic information that

excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a College program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

2. **Harassment**—Is covered under this policy if it is based upon an individual's race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, age, political ideas, marital or family status, physical or mental disability.
3. **Hostile Environment Harassment**—A hostile environment based on race, color, religion, national origin, creed, service in the uniformed services, veteran status, physical or mental disability, genetic information, exists when harassment: is sufficiently severe, pervasive, and objectively offensive that it has the effect of unreasonably interfering with, limiting, or denying an individual the ability to participate in or benefit from the College's educational program or has the effect of unreasonably interfering with an individual's employment.

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. These circumstances may include:

- a. The degree to which the conduct interfered with the complainant's educational or work performance;
 - b. The nature, scope, severity, frequency, duration, and location of the incident or incidents;
 - c. The identity, number, and relationships of persons involved;
 - d. Whether the conduct was physically threatening;
 - e. Whether the conduct occurred in the context of other discriminatory conduct.
4. **Disparate Treatment**—Treating employees differently regarding the terms and conditions of employment, including hiring, firing, transfer, and/or receipt of benefits based upon membership in a protected class.
 5. **Retaliation**— Intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by a protected activity or under Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations or this policy.

Reporting Non Sex-Based Prohibited Conduct

Any person who believes he or she is the subject of discrimination or harassment or other non sex-based prohibited conduct is strongly encouraged to pursue relief by reporting the same to the Human Resources Department.

Kara Myers, Chief Human Resources Officer
West Hall, Room 136
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B. Sex-Based (Adheres to Federal Title IX Regulations)

1. **Discrimination**— Discrimination is conduct that is based upon an individual’s race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual’s employment, education, living environment or participation
2. **Harassment**—Is covered under this policy if it is based upon an individual’s sex, pregnancy, gender identity, gender expression, sex stereotypes, sex characteristics, or sexual orientation. Sex based harassment includes sexual harassment, which is further defined below.
3. **Sex-based Harassment**—Is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex that satisfies one or more of the following:
 - a. *Quid pro quo harassment.* An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct;
 - b. *Hostile Environment Harassment.* Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe, pervasive, and objectively offensive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and
 - e. Other sex-based harassment in the recipient’s education program or activity; or
 - c. *Specific offenses.*
 - a. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 1. **Forcible**---Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.
 - a. *Forcible Rape*—The carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against that person’s will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.
 - b. *Forcible Sodomy*—Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against that person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - c. *Sexual Assault With An Object*—The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not

forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

- d. *Forcible Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against that person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary mental incapacity.
2. **Non-forcible**--- Unlawful, non-forcible sexual intercourse.
 - a. *Incest*—Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - b. *Statutory Rape*—Non-forcible sexual intercourse with a person who is under the statutory age of consent.
- b. Dating violence meaning violence committed by a person:
 - i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 1. The length of the relationship;
 2. The type of relationship; and
 3. The frequency of interaction between the persons involved in the relationship;
- c. Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - i. Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - ii. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - iii. Shares a child in common with the victim; or
 - iv. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- d. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. Fear for the person's safety or the safety of others; or
 - ii. Suffer substantial emotional distress.
4. **Inducing Incapacitation for Sexual Purposes**—Includes using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as consent is defined below) to sexual contact.
5. **Sexual Exploitation**—Occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual harassment or inducing incapacitation for sexual purposes. Examples of behavior that could rise to the level of sexual exploitation include:
 - a. Prostituting another person;
 - b. Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity;
 - c. Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
 - d. Going beyond the bounds of consent (such as letting your friends hide in the closet to watch you having consensual sex);

- e. Engaging in non-consensual voyeurism;
- f. Knowingly transmitting an STI, such as HIV, to another without disclosing your STI status;
- g. Exposing one's genitals in non-consensual circumstances, or inducing another to expose his or her genitals;
- h. Possessing, distributing, viewing or forcing others to view illegal pornography.

- 6. Disparate Treatment**—Treating employees differently regarding the terms and conditions of employment, including hiring, firing, transfer, and/or receipt of benefits based upon membership in a protected class.
- 7. Retaliation**— Intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Reporting Sex-Based Prohibited Conduct

The College has defined all faculty and staff as responsible employees/mandatory reporters for the purposes of Title IX relevant prohibited conduct (this excludes student workers and the designated confidential employee). When an employee becomes aware of an alleged act of sex-based discrimination, harassment, sexual violence or other prohibited conduct under this policy and associated procedures, the employee must promptly inform the Title IX Coordinator or Deputy Title IX Coordinator. Any person who believes he or she is the subject of sex-based discrimination or harassment, sexual harassment, or other prohibited conduct is strongly encouraged to pursue relief by reporting the same to the College's Title IX Coordinator and/or Deputy Title IX Coordinator.

Title IX Coordinator
Kara Myers, Director of Human Resources
West Hall, Room 136
Telephone: 937-778-7832
Email: kmyers1841@edisonohio.edu

Cases Involving a Minor

At Edison State Community College, we are committed to ensuring a safe and equitable environment for all students, including those who are minors. In the event of a Title IX case where either the complainant or respondent is a minor, the College will adhere to the following procedures in compliance with the applicable Title IX regulations and Ohio state laws:

1. **Immediate Safety and Support:** Our first priority is the safety and well-being of all students. The College will take immediate steps to ensure the minor's safety, including offering supportive measures such as counseling services, academic accommodations, and no-contact orders.
2. **Mandatory Reporting:** As required by Ohio law, any allegations involving minors will be reported to the appropriate authorities, such as child protective services or law enforcement. The College will fully cooperate with these agencies during their investigations.
3. **Parental/Guardian Involvement:** The College will notify the parents or guardians of the minor involved, unless there are specific legal restrictions or considerations that prevent such notification. We will involve parents or guardians in the process to ensure the minor receives the necessary support and guidance.

4. **Title IX Coordinator's Role:** The Title IX Coordinator will oversee the investigation and resolution process, ensuring it is conducted promptly, thoroughly, and impartially. The Coordinator will also ensure that the rights of both the complainant and respondent are protected throughout the process.
5. **Investigation and Adjudication:** The investigation will be conducted in a manner consistent with the applicable Title IX regulations, which include providing both parties an equal opportunity to present evidence and witnesses. The College will ensure that the process is fair and impartial, with trained investigators and decision-makers handling the case.
6. **Hearing Process:** If the case proceeds to a hearing, the College will ensure that the minor is accompanied by an advisor of their choice, which may include a parent or guardian. The hearing process will respect the minor's privacy and accommodate their needs.
7. **Confidentiality:** The College will maintain the confidentiality of the minor to the extent possible, consistent with the need to conduct a thorough investigation and comply with mandatory reporting requirements.
8. **Training and Prevention:** Edison State Community College is committed to ongoing training and education to prevent Title IX violations. This includes training for staff, faculty, and students on recognizing and responding to sexual harassment and assault, particularly involving minors.
9. **Supportive Measures:** Regardless of whether a formal complaint is filed, the College will offer supportive measures to the minor involved, ensuring their educational experience is not adversely affected during the process.

Our goal is to handle Title IX cases involving minors with the utmost sensitivity and care, ensuring compliance with all legal requirements while providing a supportive and protective environment for our students.

OTHER DEFINITIONS

CONSENT

Permissible sexual conduct requires consent. Consent is informed, freely given, and mutual. An individual cannot consent who is substantially impaired by any drug or intoxicant; or who has been compelled by force, threat of force, or deception; or if the accused substantially impairs the victim/survivor's judgment or control by administering any drug, intoxicant or controlled substance to the other person surreptitiously or by force, threat of force or deception; or who is unaware that the act is being committed; or whose ability to consent is impaired because of a mental or physical condition; or who is coerced by supervisory or disciplinary authority. Consent may be withdrawn at any time. Prior sexual activity or relationship does not, in and of itself, constitute consent.

COERCION

Use of force, threats, intimidation, or other forms of pressure to compel an individual to engage in sexual activity against their will. Coercion can involve a range of behaviors that overpower an individual's ability to freely give consent. Coercion may include, but is not limited to, the following elements under this policy:

- **Force:** The use or threat of physical violence to gain sexual access.
- **Threats:** Statements or actions that imply harm, retaliation, or negative consequences if the individual does not comply with the sexual activity.
- **Intimidation:** Actions or behaviors that cause fear or make an individual feel that they must submit to the sexual activity to avoid harm or adverse outcomes.
- **Manipulation:** Psychological or emotional tactics that pressure an individual to engage in sexual activity against their will.
- **Unreasonable Pressure:** Persistent and repeated attempts to engage in sexual activity despite clear communication of disinterest or refusal from the other party.