

ANTI-DISCRIMINATION & ANTI-HARASSMENT POLICY

Initiated by:	Jessica Chambers & Kara Myers	Date: 6-18-2020
Reviewed by:	Office of the Ohio Attorney General	Date: 6-15-2020
Approved by:	Board of Trustees	Date: 6-24-2020

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

(A) 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 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.

(B) Application. This policy and associated procedures are applicable to all aspects of College operations and programs. 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

(C) Prohibited Conduct.

- (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 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, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression or sexual orientation. Sex based harassment includes sexual harassment, which is further defined below.

- (3) **Sexual Harassment.** – Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (a) An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- (c) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

- (i) As defined in 20 U.S.C. 1092(f)(6)(A)(v), the term "sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

- (1) **Sex Offenses – 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 in capacity.
- 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) Sex Offenses - 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.

(ii) As defined in 34 U.S.C. 12291(a)(10), the term “dating violence” means violence committed by a person—

(1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
(2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (a) The length of the relationship.
- (b) The type of relationship.
- (c) The frequency of interaction between the persons involved in the relationship.

(iii) As defined in 34 U.S.C. 12291(a)(8), the term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

(iv) As defined in 34 U.S.C. 12291(a)(30), the term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- (1) fear for his or her safety or the safety of others; or
- (2) suffer substantial emotional distress.

Note: The following are criminalized under the Ohio Revised Code—Rape (ORC 2907.02); Sexual Battery (ORC 2907.03); Gross Sexual Imposition (ORC 2907.05); Sexual Imposition (ORC 2907.06); Unlawful Sexual Conduct with a Minor (ORC 2907.04); Domestic Violence (ORC 2919.25); Felonious Assault (ORC 2903.11); Aggravated Assault (ORC 2903.12); Assault (ORC 2903.13); Negligent Assault (ORC 2903.14); Kidnapping (ORC 2905.01); Abduction (ORC 2905.02); Unlawful Restraint (ORC 2905.03); Disorderly Conduct (ORC 2917.11); Aggravated Menacing (ORC 2903.21); Menacing by Stalking (ORC 2903.211); Menacing (ORC 2903.22); Telecommunications Harassment (ORC 2917.21).

(4) **Hostile Environment Harassment.** - A hostile environment based on race, color, religion, national origin, creed, service in the uniformed services, veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation 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.

- 1. 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.

(5) **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.

(6) **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:

1. Prostituting another person;
2. Non-consensual visual (e.g., video, photograph) or audio-recording of sexual activity;
3. 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;
4. Going beyond the bounds of consent (such as letting your friends hide in the closet to watch you having consensual sex);
5. Engaging in non-consensual voyeurism;
6. Knowingly transmitting an STI, such as HIV, to another without disclosing your STI status;
7. Exposing one's genitals in non-consensual circumstances, or inducing another to expose his or her genitals;
8. Possessing, distributing, viewing or forcing others to view illegal pornography.

(7) **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.

(8) **Retaliation.** – Inappropriate action taken against an individual who has sought relief under this policy when such action is motivated in whole or in part by the fact that the individual sought such relief. Examples include academic or employment reprisal against an individual who files a complaint or third-party report, or otherwise participates in the investigative and/or disciplinary process. The prohibition against retaliation extends to any person who opposes prohibited conduct, as defined by this policy, or who testifies, assists, or participates in any manner in investigation, proceeding, or hearing relative to prohibited conduct as defined by this policy.

(D) Other definitions.

(1) **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.

(E) Reporting Prohibited Conduct. The College has defined all faculty and staff as responsible employees/mandatory reporters. When an employee becomes aware of an alleged act of 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 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, Interim Director of Human Resources
West Hall, Room 136
Telephone: 937-778-7832
Email: kmyers1841@edisonohio.edu

Deputy Title IX Coordinator

Dr. Jessica Chambers, Dean of Student Affairs
West Hall, Room 160
Telephone: 937-778-7849
Email: jchambers2@edisonohio.edu

In addition, the College strongly encourages students to report instances of sex-based discrimination and sexual harassment involving students. Therefore, students who report information about sex-based discrimination and sexual harassment involving students will not be disciplined by the College for any violation of the College's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.

Upon receiving a complaint, the Title IX Coordinator will follow the procedures described in the Procedure 3358-3-07.

(F) **External Complaints.** If a person filed a complaint with the College and believes the College's response was inadequate, or otherwise believes the College has discriminated on the basis of race, color, national origin, sex, including sexual harassment, disability, age, or retaliation, the individual may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education or the Educational Opportunities Section (Title IX Coordinator) of the Civil Rights Division of the U.S. Justice Department of Justice, and a complaint based on religion with Title IX Coordinators of the U.S. Justice Department. If a student or employee filed a complaint with the College and believes the College's response was inadequate, or believes the College has discriminated on the basis of race, color, national origin, sex, including sexual harassment, disability, age, religion, creed, pregnancy, marital status, familial status (housing only), or political beliefs, or retaliation, the individual may file a complaint with the Ohio Civil Rights Commission.

(G) **Resources.** The College's Safety and Security Annual Report of on-campus crime statistics includes forcible and non-forcible sex offenses, in lieu of the single category of rape used on previous reports, as well as statistics on dating violence, domestic violence, and stalking, in compliance with the Campus Security Act.

Copies of the Safety and Security Annual Report (required by the Student Right-to-Know and Campus Security Act of 1990) which details on-campus crime statistics for the three previous calendar years may be obtained at the following location:

www.edisonohio.edu/Campus-Safety-and-Security/

Crime prevention materials concerning personal safety on campus, rape and date or acquaintance rape are available at www.edisonohio.edu/Campus-Safety-and-Security/

During the academic year, the Campus Security Office and the Office of Student Affairs may provide sex crime prevention information through campus publications and by direct presentations to student groups on request.

Available Counseling

The College does not offer on-campus counseling services to its students. Those students needing counseling can contact Ashley Homan in the Advising Office at 937-778-7995. Additional counseling services are available through the Miami, Shelby, or Darke County Crime Victim Services.

Additional Resources

National

- RAINN (Rape, Abuse and Incest National Network) <https://www.rainn.org/>
- National Sexual Violence Resource Center <http://www.nsvrc.org/>
- National Domestic Violence Hotline <http://www.thehotline.org/>
- Partnership Against Domestic Violence <http://padv.org/>
- Peer Advocates <http://www.loveisrespect.org/>
- Drugrehab.com <https://www.drugrehab.com/guides/domestic-abuse/>
- Drugrehab.com in Ohio <https://www.drugrehab.com/ohio>

Local

- Ohio Alliance to End Sexual Violence <http://oaesv.org/>
- [Ohio](#) Hopes 937-498-7400
- Ohio Domestic Violence Network Greenville 937-548-4679
- Ohio Domestic Violence Network Sidney 937-498-7261
- Ohio Domestic Violence Network Troy 1-800-351-7347
- Ohio Domestic Violence Network Eaton 937-222-7233

PERSONS AFFECTED

All employees and students of Edison State Community College.

DEFINITIONS

PROCEDURE
