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Appendix | Supplementary Disciplinary Procedures

Scope: Who is Covered by this Policy?

Undergraduate Students, Graduate Students and Student Organizations

Policy

APPENDIX A. Definitions – Title IX Violations

Sexual Misconduct.

1. Sexual assault is any sexual act directed against another person, without consent, including instances where the person is incapable of giving consent. Examples include:
 - Any non-consensual sexual intercourse, defined as any sexual penetration however slight, with any body part or object by any person upon any person without consent (commonly referred to as rape). Non-consensual sexual intercourse includes rape, incest and statutory rape.
 - Any non-consensual sexual contact, defined as any intentional sexual touching, with any body part or object by any person upon any person without consent including forcible fondling. Non-consensual sexual contact includes the touching of any body part for sexual gratification, without consent or where the person is incapable of giving consent because of age or temporary or permanent mental incapacity.
2. Sexual exploitation is taking non-consensual, unjust or abusive sexual advantage of another. Examples include non-consensual video or audio recording of sexual activity, going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity) and engaging in non-consensual voyeurism.
3. Indecent exposure is the exposure of the private or intimate parts of the body in a lewd manner in public or in private when the accused student(s) may be readily observed.

Consent for Sexual Conduct

Consent is when a person agrees or gives permission to another person to engage in certain sexual acts.

What is consent?

- Consent is a knowing and voluntary verbal or non-verbal agreement between both parties to participate in each and every sexual act.
- Consent to one sexual act does not imply consent to other or all sexual acts.
- Conduct will be considered “non-consensual” if no clear consent, verbal or non-verbal, is given. The absence of “no” does not mean “yes.”
- A person has the right to change one’s mind at any time. In other words, consent can be withdrawn at any point, as long as the person clearly informs the other party of the withdrawal.
- Taking drugs or consuming alcohol does not relieve the obligation to obtain consent.
- A person is not required to physically or otherwise resist an aggressor.

Effective Consent

- Effective consent can be given by words or actions so long as the words or actions create a mutual understanding between both parties regarding the conditions of the sexual activity. Ask, “do both of us understand and agree regarding the who, what, where, when, why, and how this sexual activity will take place?”.
- When a person affirmatively demonstrates that (1) they do not want to have sex, (2) they want to stop any sort of the sexual acts, or (3) they do not want to go any further, the other party must stop completely. Continued pressure after that point can be coercive.

Consent in Relationships

- Current or past sexual relationships or current or past dating relationships are not sufficient grounds to constitute consent.
- Regardless of past experiences with other partners or a current partner, consent must be obtained.
- Consent can never be assumed, even in the context of a relationship. A person has the right to say “no” and to change their mind at any time.

A person cannot legally give consent (no matter what they might say), when:

- The person is substantially impaired due to alcohol or drugs, incapacitated, or unconscious.
- The person is physically or mentally disabled or incapacitated.
- The person was coerced due to force, threat of force, or deception or when the person was beaten, threatened, isolated, or intimidated.

Interpersonal Violence

Dating Violence

Dating Violence is an act of violence committed by a person who is or has been in a social relationship of an intimate or romantic nature with the complainant.

The existence of such a relationship shall be determined based on consideration of the following factors:

- Length of the relationship.
- Type of relationship.
- Frequency of interaction between the persons involved in the relationship.

Domestic Violence

Domestic Violence- is an act of violence committed by a current or former spouse or intimate partner of the complainant or a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner or person similarly situated, or by a parent with whom the complainant shares a child in common.

Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress. Stalking includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death. For the purpose of this definition:

- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

A person who has experienced stalking should retain all communications from the accused individual, including email, voicemail, text-messages, social media communication, etc.

Sexual Harassment

In the employment context, sexual harassment is unwelcome, sex- or gender-based verbal or physical conduct that unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

In the educational context, sexual harassment is unwelcome, sex- or gender-based verbal or physical conduct that is sufficiently severe, persistent, or pervasive that it interferes with, denies, or limits an individual's ability to participate in or benefit from the University's educational programs and activities.

Sexual Harassment can take two forms: power differentials (quid pro quo) or hostile environment:

1. Quid pro quo sexual harassment exists when:
 - a. There are unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature; and
 - b. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status; or
 - c. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions adversely affecting such individual.
2. Hostile environment in the employment context includes any situation in which there is harassing conduct that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. Hostile environment in the education context includes any situation in which there is harassing conduct that limits, interferes with, or denies educational benefits or opportunities, from an objective (reasonable person's) viewpoint. The determination of whether an environment is "hostile" is based on a totality of circumstances. These circumstances may include:
 - a. The degree to which the conduct interfered with the complainant's educational or work performance;
 - b. The type, frequency, and duration of the conduct;
 - c. The identity of and relationship between the accused and the complainant(s);
 - d. The number of individuals involved;
 - e. The age and sex of the accused and the complainant(s);
 - f. The location of the incident(s) and the context in which it occurred;
 - g. The nature and severity of the conduct;
 - h. Whether the conduct was physically threatening;
 - i. Whether the conduct was humiliating;
 - j. The effect of the conduct on the complainant's mental or emotional state;
 - k. Whether the conduct arose in the context of other discriminatory conduct;
 - l. Whether the speech or conduct deserves the protections of academic freedom or the First Amendment.

APPENDIX B. The Miami University John E. Dolibois European Center (MUDEC) Discipline Policies

Student Conduct

The Code of Student Conduct in The Student Handbook shall apply to all students at MUDEC. This includes the policies regarding the use and abuse of alcohol or other drugs, with recognition that the laws abroad may vary from those in the United States. When there is evidence or an allegation of a violation of the Code of Student Conduct

and/or of MUDEC regulations, disciplinary proceedings may be initiated. Specifics of the conduct policy are spelled out below and on the waiver form that students must sign before leaving the U.S. All provisions of the Code of Student Conduct regarding procedures shall apply to students at MUDEC with the following exceptions:

1. Disciplinary action will be initiated by the Dean of MUDEC. Prior to the procedural review, the Dean will consult with the Oxford campus Office of Community Standards to determine whether the case should be adjudged in full at MUDEC or whether some aspect of the disciplinary process should be undertaken after the student's return to the U.S. The student shall be notified of this decision as part of the procedural review.
2. In addition to the sanctions listed in Chapter 2 of the Code of Student Conduct, it shall be understood that "Termination of Enrollment at the Dolibois European Center (MUDEC)" may be among the sanctions imposed. The decision made by the Luxembourg Disciplinary Board does not preclude the possibility of further disciplinary action upon the student's return to the Oxford campus.
3. All references to University officials are deemed references to the most closely analogous officials at MUDEC.
4. The MUDEC Disciplinary Board shall be composed of five members: one fulltime faculty member of MUDEC (who shall serve as chair and arrange for minutes of the proceedings to be kept); the Student Activities Coordinator; one European instructor familiar with MUDEC; and two students.
5. The Dean shall appoint the faculty and staff members at the beginning of each academic year. The two student members plus one alternate shall be appointed by the Dean of MUDEC at the beginning of each semester or at other times if a vacancy should occur.
6. The Dean shall attend the meeting of the Disciplinary Board in order to explain the reasons for instituting disciplinary proceedings against the student.
7. The University Appeals Board of Miami University, Oxford, Ohio, will adjudicate any appeals of the findings of the MUDEC Disciplinary Board.
8. There will be no Vice Presidential review of these decisions.

Following suspension and/or dismissal from MUDEC, the student will be required to leave University-provided housing in Luxembourg immediately. No refund of fees paid will be made.

Waivers

Before leaving for Luxembourg, all students are required to sign a waiver indicating: (a) that they have read and understood the MUDEC attendance and discipline policies, and (b) that they understand and accept the possible sanctions in case of any violation of one or the other (or both) of these policies.

APPENDIX C. 1219 Offenses

The Ohio Revised Code enumerates the following offenses of violence:

2903.01 – *Aggravated Murder*

2903.02 – *Murder*

2903.03 – *Voluntary Manslaughter*

2903.04 – *Involuntary Manslaughter*

2903.11 – *Felonious Assault*

2903.12 – *Aggravated Assault*

2903.13 – *Assault*

2903.15 – *Permitting Child Abuse*

2903.21 – *Aggravated Menacing*

2903.211 – *Menacing by Stalking*

2903.22 – *Menacing*

2905.01 – *Kidnapping*

2905.01 – *Abduction*

2905.11 – *Extortion*

2907.02 – *Rape*

2907.03 – *Sexual Battery*

2907.05 – *Gross Sexual Imposition*

2909.02 – *Aggravated Arson*

2909.03 – *Arson*

2909.24 – *Terrorism*

2911.01 – *Aggravated Robbery*

2911.02 – *Robbery*

2911.11 – *Aggravated Burglary*

2917.01 – *Inciting to Violence*

2917.03 – *Aggravated Riot*

2917.03 – *Riot*

2917.31 – *Inducing Panic*

2919.25 – *Domestic Violence*

2919.25 – *Intimidation*

2921.04 – *Intimidation of Crime Victim or Witness*

2921.34 – *Escape*

2923.161 – *Improperly Discharging Firearm at or into Habitation or School Safety Zone*

Division (A)(1), (2), or (3) of Section 2911.12 – *Burglary*

Division (B)(1), (2), (3), or (4) of Section 2919.22 of the Revised Code – *Endangering Children*

APPENDIX D. Hazing

Definition

In the University context, the term “hazing” typically refers to actions directed toward or required of individuals new to a group or community by those who are established within the group. Hazing is a broad term encompassing a multiplicity of actions and activities which do not contribute to the positive development of a person; or which inflict or intend to cause mental or bodily harm or anxiety; or which demean, degrade, or disgrace a person.

Hazing is based on the premise that some members are less equal than other members and, therefore, less deserving of respect. It is rationalized by the philosophy that membership is earned, not learned. Hazing especially undermines new member education programs by eroding the atmosphere of mutual respect and trust necessary for groups to contribute to the positive personal growth of all members.

Hazing is strictly prohibited by University policy and state law.

Examples of Hazing

Examples of activities or situations that meet the definition of hazing include, *but are not limited to*, the following:

1. Forcing, requiring, authorizing, or encouraging any person to ingest alcohol, other drugs, food, or any other substance that is spoiled, undesirable, unsafe, or unhealthy.
2. Any form of paddling, physical abuse, psychological abuse, deception, or shocks.
3. Morally degrading or humiliating activities, games, or stunts including, *but not limited to*, the following:
 1. Throwing anything (whipped cream, water, garbage, paint, etc.) at an individual.
 2. Chairings and “polings.”
 3. Deliberately creating a mess and requiring any person to clean up the mess.
 4. Requiring or encouraging a person to yell when entering or leaving the chapter house or any other location.
 5. Audible harassment such as yelling and screaming at a person, calling him or her demeaning names.
 6. Playing extremely loud music or music which is repeated over and over.
4. Any activity that interferes with an individual’s scholastic pursuits (class attendance, preparation, study time, etc.).
5. Causing excessive fatigue by any means including calisthenics, or not permitting six (6) hours of continuous sleep each night.
6. Conducting a new member-related activity between the hours of midnight and 7:00 a.m., or awakening individuals during these hours.
7. Compelling an individual or group to remain at a certain place or to be transported within or beyond the Oxford City limits (road trips, kidnaps).
8. Requiring or compelling any person to conduct or participate in quests, treasure hunts, scavenger hunts, paddle hunts, big and little brother or sister hunts.
9. Requiring any person to “march” in formation or dress like others.
10. Requiring a person to carry items that might be cumbersome or embarrassing.
11. Not permitting a person to talk during an extended period of time.
12. Requiring nudity at any time.
13. Requiring an individual to perform personal errands (servitude).
14. Preventing any person from practicing personal hygiene.
15. Endorsing or encouraging any person’s participation in any activity that could be considered hazing. Note: The laws of the State of Ohio hold accountable not only the perpetrator of the activity but those present and able to prevent a hazing incident from occurring.

Questions to Ask

While this appendix is by no means all-encompassing, it should present a clearer view of what hazing is. If you are planning an activity, you may wish to use the following questions, adapted from the *Adelphian*, as guidelines:

1. Will the activity achieve one or more of the predetermined goals of your new member program?
2. Would you be willing to tell your advisor about the activity in advance?
3. Would you be willing to perform it in front of a University faculty or staff member?
4. Would you be willing to send a snapshot of the activity to your parents and the parents of the students involved?
5. Would you be willing to go to court to defend the merit of the activity?

If you are able to answer yes to these questions, then it is likely that the activity is appropriate for your organization, fraternity, or sorority. The Office of Student Activities and Leadership should be consulted if questions arise about the appropriateness of an activity.

Related Form(s)

Not Applicable.

Additional Resources and Procedures

Not Applicable.

FAQ

Not Applicable.

Policy Administration

Next Review Date

7/1/2023

Responsible Officer

Director, Office of Community Standards

Legal Authority

Ohio Revised Code

Compliance Policy

Yes

Revision History

Reference ID

Student Handbook 2.6

Reviewing Bodies

Student Life Council

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- [Family Consumer Information](http://miamioh.edu/about-miami/pubs-policies/consumer-info/index.html) (http://miamioh.edu/about-miami/pubs-policies/consumer-info/index.html)
 - [Report an Accessibility Issue](http://miamioh.edu/it-services/accessmu/access-form/index.html) (http://miamioh.edu/it-services/accessmu/access-form/index.html)
 - [Annual Security and Fire Safety Report](http://miamioh.edu/campus-safety/annual-report/index.html) (http://miamioh.edu/campus-safety/annual-report/index.html)
 - [Report a Problem With This Website](http://miamioh.edu/includes/problem/index.html) (http://miamioh.edu/includes/problem/index.html)
 - [Privacy Statement](http://miamioh.edu/about-miami/pubs-policies/privacy-statement/index.html) (http://miamioh.edu/about-miami/pubs-policies/privacy-statement/index.html)

- [Jobs and Careers at Miami](http://miamioh.edu/jobs-careers) (http://miamioh.edu/jobs-careers)
- [A to Z Listing](http://miamioh.edu/a-z) (http://miamioh.edu/a-z)