

Nondiscrimination Grievance Procedure, 2.03(a)

Chapter 2: Personnel

Purpose:

The purpose of these procedures is to provide a prompt and equitable resolution for complaints or reports of harassment or discrimination based upon race, color, sex (including pregnancy and parenting status), gender, gender identity or manifestation, genetic information, sexual orientation, religion, age, marital status, national origin, disability, veteran status, or any other basis prohibited by the Civil Rights Act of 1964, 504 of the Rehabilitation Act, Title II of the Americans with Disability Act, and applicable federal, state, or local laws and college policy. Harassment constitutes conduct that is unwelcome and is sufficiently severe, pervasive and objectively offensive that it effectively denies an individual equal access to the institution's education or employment programs or activities. These procedures address all complaints or formal reports of alleged discrimination or harassment based on the above protected class categories. These procedures also address complaints or reports of retaliation against those who have opposed practices forbidden under this policy, those who have filed complaints or reports under this policy, and those who have testified or otherwise participated in enforcement of the policy.

Any person believing that they have been subjected to harassment on the basis of sex or gender or is subjected to sexual misconduct that includes sexual assault, dating or domestic violence or stalking, may file a complaint or formal report with the College pursuant to policy and procedures in College Policy 2.02 ([Sex/Gender Harassment, Discrimination and Sexual Misconduct Policy](#)). All sex/gender harassment or misconduct allegations will be addressed by the Title IX Coordinator and will be subject to the procedural guidelines set forth in College Policy 2.02.

I. College Complaints and Reporting:

Complaints and third-party reports of discrimination, including Policy Violations under College Policy 2.02, should be made to the Executive Director of Human Resources/Title IX Coordinator, or to a designated Mandatory Reporter. The Title IX Coordinator is trained to help you and provide supportive measures you might need, to explain all reporting options, and to respond appropriately to conduct of concern. All instances of retaliation should be reported and will be addressed in the same manner. The contact information for the Title IX Coordinator is listed below.

Andrea Goings
Executive Director, Human Resources
Title IX Coordinator
Rhodes State College
Public Service Building 223
Lima, OH 45804
419-995-8302

Trisha Russell
Associate Executive Director
Deputy Title IX Coordinator
Rhodes State College
Public Service Building 223
Lima, OH 45804
419-995-8383

Complaints and reports should be made as soon as possible after an incident. The Title IX Coordinator coordinates and tracks all complaints and reports under this procedure.

There are several avenues available for submitting a complaint or report:

- a. Leave a private voice message for the Title IX Coordinator;

- b. Send a private email to one of the Title IX Coordinator staff;
- c. Mail a letter to the Title IX Coordinator office;
- d. Visit the Title IX Coordinator's office or other designated Deputy Coordinator (it is best to make an appointment first to ensure availability).
- e. Report to another trusted College official (e.g., Professor, Coach, Advisor) who will provide information as required under the policy to the Title IX Coordinator.

If there is a complaint about the Title IX Coordinator or any staff member that is part of the Title IX Coordinator's Office, or if the Title IX Coordinator or his/her staff has a complaint, that complaint should be filed with the President of the College. The President will appoint another trained individual to take the place of the Title IX Coordinator for purposes of the complaint.

II. Reporter or Complainant Requests no Investigation

If a reporter or complainant requests that an investigation not be conducted, the Title IX Coordinator will consider the reasons for the request, including concerns about continued safety of the person reportedly harmed and members of the campus community. The Title IX Coordinator must also balance considerations about the continued health and safety of members of the community against a reporter's or complainant's desire not to have the report investigated. In cases when a reporter or complainant does not want to have a report investigated, but the Title IX Coordinator has concerns that not taking formal or informal action might endanger the health or safety of members of the campus community, the Title IX Coordinator will initiate confidential consultation with appropriate individuals to analyze the situation and assist in determining appropriate measures to take. Consultation may occur with the Senior Vice President Academic Affairs, Student Affairs, Workforce Development (SVP), Dean of Student Affairs, chair(s) of the Behavioral Intervention Team ("BIT"), Public Safety Officer, Clery Compliance Officer, psychological health professional, Director of Human Resources, and legal counsel. The Title IX Coordinator will make the ultimate decision about whether to conduct a formal investigation or respond to the report in another manner, including taking informal actions, such as those described above.

III. Confidentiality of Complaints and Reports

Parties in these processes, including the Complainant, the Respondent, and witnesses, have privacy rights and reasonable expectations of confidentiality in the investigation of matters subject to this procedure. In addition, the integrity of the process depends on ensuring reasonable expectations of confidentiality.

The Title IX Coordinator will keep confidential the complaint, report, supportive measures, witness statements, and any other information provided by the Complainant, Respondent, or witnesses and will disclose this information only to the Complainant, Respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other College officials as necessary for coordinating interim measures or for health, welfare, and safety reasons, and to government agencies who review the College's compliance with federal law.

The investigation report and any written decision from the Discrimination Grievance Committee will be disclosed only to the Complainant, Respondent, Title IX Coordinator,

Discipline Authority¹ as necessary, and College officials as necessary to prepare for subsequent proceedings (e.g., College President and College Legal Counsel). Members of the Discrimination Grievance Committee have the same strict obligations to keep all information they learn confidential, subject to the limited exception when necessary to protect health, welfare or safety. Information about complaints and reports, absent personally identifiable information, may be reported to College officials and external entities for statistical and analysis purposes pursuant to federal and state law and College policy.

The Title IX Coordinator accepts anonymous and third-party reports of conduct alleged to violate this Policy and will follow up on such reports. The individual making the report (Reporter) is encouraged to provide as much detailed information as possible to allow the Title IX Coordinator to investigate and respond as appropriate. The Title IX Coordinator may be limited in the ability to investigate an anonymous report unless sufficient information is furnished to enable the Title IX Coordinator to conduct a meaningful and fair preliminary investigation.

IV. Resolution

If a complainant chooses to file a formal complaint, there are two avenues for resolution of an alleged Policy Violation: formal and informal resolution. The complainant has the option to proceed informally, if the respondent agrees and when permissible as determined by the Title IX Coordinator. The Title IX Coordinator is available to explain the informal and formal resolution procedures.

a. Informal Process and Resolution

If the complainant, the respondent, and the Title IX Coordinator all agree that an informal resolution should be pursued, the Title IX Coordinator (or her/his designee) shall attempt to facilitate a resolution of the conflict that is agreeable to all parties. Under the informal process the Title IX Coordinator shall be required only to conduct such fact-finding as is useful to resolve the conflict and as is necessary to protect the interests of the parties, the College and the community. A complainant or respondent always has the option to request a formal investigation. The Title IX Coordinator also always has the discretion to initiate a formal investigation. If at any point during the informal process, the complainant, the respondent, or the Title IX Coordinator wishes to cease the informal process and to proceed through formal grievance procedures, the formal process outlined below will be invoked.

The informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the College to stop, remedy and prevent policy violations. Informal actions might include but are not limited to: providing training to a work unit; having an informal discussion with an individual whose conduct, if not stopped, could rise to the level of discrimination, or hostile environment harassment; or having a confidential conversation with a supervisor or instructor.

¹ In the case of employees, the Discipline Authority (Decision Maker) is the College administrator with the authority to impose sanctions in accordance with applicable employment policies and procedures. In the case of students, the Discipline Authority is the Senior Vice President.

b. Formal Process**i. Step 1:**

The Title IX Coordinator discusses concerns with complainant, and the respondent as appropriate, including providing information about the policy and procedures and other helpful resources. The Title IX Coordinator also considers whether immediate or interim actions or involvement of other College offices is appropriate. Title IX Coordinator determines whether the office has jurisdiction to investigate the matter.

- a) **Option 1:** If the Title IX Coordinator determines that there is no jurisdiction, the Title IX Coordinator will offer to assist the complainant and, as appropriate, the respondent, in finding appropriate campus and off-campus resources for addressing the issue of concern.
- b) **Option 2:** If the Title IX Coordinator determines that there is jurisdiction, the Title IX Coordinator will proceed to Step 2.

ii. Step 2:

The Title IX Coordinator conducts or oversees the conducting of a fair and impartial investigation of the alleged Policy Violation and proceeds to Step 3. Typically, an investigation will be completed within forty (40) days of receipt of the complaint. If it becomes necessary to extend the process, both parties will be notified of a revised expected resolution timeframe.

Only a trained investigator will conduct an investigation. Respondents will have the opportunity to review and respond to evidence considered against them. Both parties will have the opportunity to review and provide comments to the investigator about the written investigation report before it is finalized. The investigator will make a recommendation for a finding to the Title IX Coordinator.

iii. Step 3:

The Title IX Coordinator determines whether there is a preponderance of the evidence to believe that an individual engaged in a Policy Violation. This means that individuals are presumed not to have engaged in alleged conduct unless a “preponderance of the evidence” supports a finding that the conduct has occurred. This “preponderance of the evidence” standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it.

In making the determination of whether harassment has created a hostile environment, the Title IX Coordinator will consider not only whether the conduct was unwelcome to the complainant sufficient to create a discriminatory impact, but also whether a reasonable person in the complainant’s situation would have perceived the conduct as objectively offensive. The Title IX Coordinator’s findings will be in writing and will be provided to both the complainant and to the respondent(s).

- a) **Option 1:** If the Title IX Coordinator finds by a preponderance of the evidence that a policy violation does not exist, the matter is

documented and closed; in this case the Complainant may appeal the finding to the Discrimination Grievance Committee.

- b) **Option 2:** If the Title IX Coordinator finds by a preponderance of the evidence that a policy violation exists, the Title IX Coordinator's written report will include recommendations for steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the complainant. The finding will be provided to the Discipline Authority for a determination of appropriate sanctions. In the case of student respondents, the Discipline Authority will be the Senior Vice President. In the case of employees, the Discipline Authority is the College administrator with the authority to impose sanctions in accordance with applicable employment policies and procedures. The Discipline Authority must inform the Title IX Coordinator of the ultimate sanctions imposed upon a Respondent. The Title IX Coordinator will inform the complainant of the sanctions as permitted by applicable Title IX and privacy laws.

V. Relation to the Student Code of Conduct

The Senior Vice President is charged with imposing sanctions on students who are found to have violated this policy. Sanctions may include suspension, expulsion, probation, a warning, or any other sanction set forth in the Student Conduct Code. Disciplinary records for policy violations are maintained in the same manner as other disciplinary records.

The Executive Director of Human Resources is charged with imposing sanctions on employees who are found to have violated this policy. Sanctions may include verbal reprimand reduced to writing, written reprimand, probation, suspension, last change agreement or termination as set forth in the Disciplinary Action and Due Process Policy.

VI. Appeals to the Discrimination Grievance Committee

a. Composition of the Committee

The committee shall have four (4) regular members including the Chair. Of the four regular members, one shall be a student, one shall be a member of the faculty, one shall be a member of the non-academic staff, and one shall be representatives of the administration.

b. Selection of Members

Members shall be appointed by the President of the College. Each of the three groups listed below will nominate four (4) candidates. The President will appoint one member from each pool of four (4) candidates. The President shall also designate one (1) alternate from each of these groups:

- i. The Executive Committee of the Faculty Association;
- ii. The President's Staff;
- iii. Staff member selected by Cabinet members.

c. Appointment of Chair

The President shall appoint the Chair.

d. Terms of Appointment

To assure cumulative experience and development of expertise as well as continuity and uniformity of decisions, the terms of regular members will be of extended duration. Members of each of group shall be appointed for three (3)

years. Any member whose term has expired and who is willing to continue to serve on the committee may be reappointed by the President of the College.

The President may appoint one or more persons to serve temporarily as a member of the committee to fill a vacancy or ensure a quorum, or in response to a request from the Chair to avoid delay in proceedings. The term of temporary appointment continues for the duration of the proceedings or until the temporary appointee is replaced by a regular member.

e. Removal of Members

The Committee Chair may either permanently or temporarily remove or replace any regular member of the committee under the following circumstances:

- i. In response to a request from those responsible for the nomination of the member;
- ii. In response to a request from a majority of the committee members;
- iii. In response to a request from the Title IX Coordinator;
- iv. In response to a request from a committee member that he/she be excused;
- v. In response to a request from a party who raises a legitimate concern regarding a conflict of interest.

If any person or group other than the member requests removal, that member will have an opportunity to rebut any evidence presented in support of the request for removal. If a concern as enumerated above is raised about the Chair, the President of the College will make the determination about either permanent or temporary removal from the committee.

f. Quorum

There must be a member from each of the three constituent groups specified above to constitute a quorum.

g. Authority of Committee

The committee may:

- i. call student and employee witnesses to testify or to be present during a hearing, and obtain other evidence held by the College or any student or College employee;
- ii. arrange with the Title IX Coordinator for appropriate funding and staff support to facilitate hearings;
- iii. hold pre-hearing conferences;
- iv. issue hearing orders;
- v. hold formal hearings and control conduct of such hearings;
- vi. make decisions, findings of fact, and recommendations, including recommended sanctions, to the President by vote of a majority of the regular members involved in the hearing process.

VII. Filing an Appeal

Either party may file an appeal of the decision, which must be filed within five (5) business days, of the receipt of the decision, unless good cause can be shown for an extension of time. The original finding and sanction will stand if the appeal is not timely or substantively eligible, and the decision is final. The request for an appeal must be filed with the Title IX

Coordinator. The request for an appeal must be in writing and must state the evidence or information to support the appeal. The grounds for appeal include:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- c. 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.

VIII. Appeal Protocol

- a. All sanctions imposed by the original hearing body or Title IX Coordinator will be in effect during the appeal. A request may be made to the Title IX Coordinator for special consideration in exigent circumstances, but the presumptive stance of the institution is that the sanctions will stand. Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal. Employees whose sanction results in termination will remain on the payroll during the pendency of the appeal but will remain on leave during the appeal period. In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irretrievable in the short term.
- b. The appeals committee is representative of employees with the same criteria as listed in Selection of Members Section IV.b. If the appeals officer or committee determines that a material procedural [or substantive] error occurred, it may return the complaint to the original decision maker with instructions to reconvene to cure the error. The results of a reconvened hearing cannot be appealed. In rare cases, where the procedural [or substantive] error cannot be cured by the original decision maker (as in cases of bias), the appeals committee may order a new hearing on the complaint with a new body of hearing officers. The results of a new hearing can be appealed, once, on the same three applicable grounds for appeals as above in Section VII.
- c. The procedures governing the hearing of appeals include the following:
 - i. All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
 - ii. Every opportunity to return the appeal to the original hearing body for reconsideration (remand) should be pursued;
 - iii. Appeals are not intended to be full re-hearings of the complaint (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal;
 - iv. This is not an opportunity for appeals officers to substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions. Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to sanction only if there is a compelling justification to do so;

- v. Sanctions imposed are implemented immediately unless the Director of Student Conduct stays their implementation in extraordinary circumstances, pending the outcome of the appeal.

The appeals committee or officer will render a written decision on the appeal to all parties within seven (7) business days* from hearing of the appeal. The committee's decision to deny appeal requests is final.

IX. Conflict of Interest and Training

All College officials who are involved in the discrimination grievance process, including the Title IX Coordinator, designated investigators, Discrimination Grievance Committee, and Discipline Authorities, must have adequate training. Training will address, but is not limited to, recognizing and appropriately responding to allegations of discrimination, harassment, including hostile environment harassment, sexual misconduct, and retaliation, conducting investigations, protecting confidentiality, and recognizing the link between alcohol and drug use and sexual assault and sexual harassment.

The names of the Investigator and the individuals who will serve on the Discrimination Grievance Committee for a particular matter will be readily accessible. These individuals must promptly disclose any potential conflict of interest they might have in a particular case. In the rare situation in which an actual or perceived conflict of interest arises between an Investigator, or member of the Discrimination Grievance Committee, that conflict must be disclosed to both parties.

X. External Complaints

If you filed a complaint with the Title IX Coordinator and believe the College's response was inadequate, or you otherwise believe you have been discriminated against by the College on the basis of race, color, national origin, sex, disability age, or retaliation, you may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education or the Educational Opportunities Section (EOS) of the Civil Rights Division of the U.S. Justice Department of Justice, and a complaint based on religion with EOS of the U.S. Justice Department.

As a student or employee, if you filed a complaint with the Title IX Coordinator and believe the College's response was inadequate, or you otherwise believe you have been discriminated against by the College on the basis of race, color, national origin, sex, disability, age, religion, creed, pregnancy, marital status, familial status (housing only), or political beliefs, or retaliation, you may file a complaint with the Equal Employment Opportunity Commission and Ohio Civil Rights Commission at

Central Office:
Rhodes State Office Tower
30 East Broad Street, 5th Floor
Columbus, OH 43215
Phone: (614) 466-2785
Fax: (614) 644-8776

	Date:	Reason:
Issued:	08/18/2020	Corresponds with Policy 2.03 Nondiscrimination
Revised:	03/16/2021	Change in titles to align with organizational structure and added definition of harassment per Senate Bill 40

This policy and / or procedure provides operating principles for Human Resources issues at Rhodes State College. It supersedes any prior policy covering specific subject. This policy and / or procedure may be suspended, modified or cancelled as determined by the College. This policy and / or procedure does not create a contract of employment, nor is it a condition of employment between the College and its employees.