



Ohio Administrative Code Rule 3357:15-14-15 Sexual misconduct.

Effective: June 3, 2024

Stark state college is committed and responsible for establishing, maintaining and providing a safe, secure, and non-discriminatory environment for our employees and students, free of sexual misconduct and sex discrimination based on gender, gender identity, or sexual orientation, gender transition status, or pregnancy. The college will not tolerate any kind of sexual misconduct and will not compromise the responsibility for addressing issues of sexual misconduct. The college will not tolerate sex-based discrimination or sex-based violence based on sexual orientation, gender identity, gender transition status, or pregnancy. Sexual misconduct is socially irresponsible and violates the rights of other individuals. Sexual misconduct has the potential of threatening an individual's academic performance, economic livelihood, career advancement, psychological, and total well-being and is prohibited by this policy. This policy is also applicable to all third parties affiliated with the college. Third parties are neither employees nor students and can include, but are not limited to, consultants, vendors, contractors, etc. Sexual misconduct is a serious offense which could lead to dismissal and/or termination from the college and criminal charges being filed with the local law enforcement authority having jurisdiction.

(A) Definitions

(1) Sexual misconduct - any unwelcome behavior of a sexual nature that is committed without consent. Sexual misconduct can occur between persons of the same or different sex. Sexual misconduct is a type of violence that uses power, control, and/or intimidation to harm another. It includes sexual harassment, sexual assault, domestic violence, dating violence, and stalking. It occurs when there is an absence of consent. Consent is a free and clearly given "yes," not the absence of a "no," and cannot be received when a person is incapacitated by alcohol or drugs. Sexual misconduct is a broad term that includes sexual assault (rape, sexual fondling, incest, or statutory rape) as well as sexual exploitation and sexual harassment.

(2) Non-consensual sexual contact - any intentional sexual touching and any other intentional bodily contact in a sexual manner, however slight, with any object, by a man or a woman upon another



person that is without consent.

(3) Incapacitation - a state in which a person cannot make rational decisions because they lack the capacity to give consent. Incapacitation may result from a mental or physical disability, unconsciousness, or from the taking of alcohol or other drugs. Sexual misconduct occurs when a person engages in sexual activity when they knew, or should have known, that the other person was incapacitated.

(4) Consent - a freely and affirmatively communicated willingness to participate in sexual activity, expressed by clear, unambiguous words or actions. It is the responsibility of the initiator of the sexual activity to ensure that he or she has the other person's consent to engage in sexual activity, throughout the entire sexual activity, by all parties involved. At any time, a participant can communicate that he or she no longer consents to continuing the activity. Consent may never be obtained through the use of force, coercion, or intimidation or if the victim is mentally or physically incapacitated, including through the use of drugs or alcohol. Consent cannot be assumed based on the existence of a previous dating or sexual relationship. The initiator's use of alcohol or drugs does not diminish his/her responsibility to obtain consent.

(5) Force - the use of physical violence, threat of physical violence, and/or imposing on someone physically to gain sexual access.

(6) Rape - penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

(7) Coercion - unreasonable, intimidating, or forcible pressure for sexual activity.

(8) Sexual assault - includes non-consensual vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

(9) Sexual exploitation - occurs when someone takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to the benefit or advantage of anyone other than the person being exploited.



(10) Stalking - engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. 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.

(11) Domestic violence - a felony or misdemeanor crime 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 in which the crime of violence occurred; 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 in which the crime of violence occurred.

(12) Intimate partner violence/dating violence - violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and/or the frequency of interaction between the persons involved in the relationship.

(13) Gender-based violence - gender-based violence refers to any type of harm that is perpetrated against a person or group of people because of their factual or perceived sex, gender, sexual orientation, and/or gender identity.

(a) Gender-based violence (GBV) is defined as any harmful threat or act directed at an individual or group based on their actual or perceived:

(i) Biological sex;

(ii) Gender identity;



(iii) Gender expression;

(iv) Sexual orientation; or

(v) Difference from social norms related to masculinity or femininity

GBV can include and be identified by physical, sexual, psychological, technological, economic, and emotional abuse. It is rooted in structural gender inequalities, coercive control, and power imbalances.

(14) Sexual harassment - is conduct on the basis of sex that satisfies one or more of the following: unwelcomed sexual advances; request for sexual favors; and/or other verbal, non-verbal, or physical conduct of a sexual nature. Sexual Harassment is sex-based harassment that includes gender-based harassment. Sexual harassment is inclusive of sexual violence and gender-based harassment, defined as follows:

(a) Sexual violence

Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the victim's age or use of drugs or alcohol, or because an intellectual or other disability prevents the victim from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

(b) Gender-based harassment

Gender-based harassment is unwelcome conduct based on an individual's actual or perceived sex. It includes slurs, taunts, stereotypes, or name-calling as well as gender-motivated physical threats, attacks, or other hateful conduct.

(c) An individual can experience harassment of one type or may experience combinations of discriminatory conduct.



(i) An employee of the college conditioning the provision of aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct;

(ii) 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

(iii) "Sexual assault," "dating violence," "domestic violence," or "stalking" as those terms are defined under other federal laws called the Clery Act and the Violence Against Women Act.

(d) Forms of sexual harassment include:

(i) Quid pro quo (a.k.a "this for that") - the abuse of power and/or authority. Such behavior is especially harmful in situations where the imposition of unwanted sexual attention is accompanied by an explicit or implied promise of employment, academic success, preferential treatment, the threat of reprisal, or a negative consequence for refusal to engage in behavior of a sexual nature. Sexual harassment may occur without employment, academic, or economic injury to the victim.

(ii) Hostile work environment - includes any unwelcome, and severe or pervasive action of a sexual nature which unreasonably interferes with job performance or learning ability and creates an intimidating, or offensive work, academic or athletic environment, even if it leads to no tangible or economic consequences. A single instance of harassment may be sufficient to create a hostile work environment.

(B) Reporting responsibilities for sexual misconduct

(1) Anyone who believes that an administrator, supervisor, employee, faculty member, student, or non-employee's behavior constitutes discrimination or harassment has a responsibility to report the behavior/action as soon as it is known, but no later than 180 days of the occurrence, so that the college may administer this policy



(2) In cases of alleged sexual misconduct where the victim or alleged perpetrator is a student, a potential student, an employee, or a campus visitor the complaint may be made to any of the following:

- (a) Title IX coordinator
- (b) Campus security
- (c) Any college employee
- (d) Student support counselor - confidential source
- (e) Interfaith campus ministry - confidential source
- (f) A law enforcement officer from the local jurisdiction

(3) Any person designated to receive complaints under this policy who has direct or constructive knowledge of alleged discriminatory or harassing behavior is a mandatory reporter and must take immediate appropriate action to report the behavior to the Title IX coordinator. Failure to do so shall result in disciplinary action up to and including termination of employment.

(C) Reporting to an outside agency

Persons who believe that they have been subjected to sexual misconduct may also file a complaint with the local law enforcement agency, if criminal justice action is desired, the Ohio civil rights commission, the U.S. equal employment opportunity commission, or the U.S. department of education's office for civil rights. Information and assistance regarding filing charges with any of the agencies may be obtained from the agency directly or from the college's Title IX coordinator.

(D) Confidentiality - To the extent possible, all information received in connection with the reporting, investigation, and resolution of allegations of sexual misconduct will be treated as confidential, except to the extent it is necessary to disclose information in order to investigate the allegation, take steps to stop, prevent or address the misconduct, resolve the complaint, or when



compelled to do so by law. All individuals involved in the process should observe the same standard of discretion and respect for the reputation of everyone involved in the process.

(E) Retaliation

College policy and federal, state, and local law strictly prohibit retaliation in any form against any employee, faculty member, student, vendor, customer, or other person participating in a college program or activity who complains or reports an allegation, or who participates in an investigation of sexual misconduct.