

# Sexual Harassment Policy

Date

8/22

Item

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## Scope

### 1.1 Introduction

The University of Southern Indiana (“University” or “USI”) embraces and celebrates the many differences that exist among the members of a dynamic, intellectual, and inclusive community, and strives to maintain an environment that respects differences and provides a sense of belonging and inclusion for everyone. In accordance with Title IX of the Educational Amendments Act of 1972 and its implementing regulations, the University prohibits discrimination on the basis of sex, including Sexual Harassment (as defined below), in its education programs or activities. This prohibition on sex discrimination includes, but is not limited to, admission and employment.

For discrimination or harassment that is not on the basis of sex, does not meet the definitions of Prohibited Conduct in this Policy, or does not meet the jurisdictional requirements for Title IX, the University will utilize the University Handbook, specifically the **Equal Opportunity and Non-discrimination Policy** or the **Student Rights and Responsibilities** or other appropriate University policies.

### 1.2 Scope and Jurisdiction of Policy

This Policy prohibits sexual harassment including sexual assault, domestic violence, dating violence, stalking, and also sexual exploitation. It applies to conduct that occurs on University property or at University-sponsored activities. The University may also address “Non-Title IX” complaints that occur off-campus, at study abroad programs, and/or online when the conduct affects a substantial University interest.

All actions by a member of the University community that involve the use of the University's computing and network resources from a remote location, including but not limited to accessing email accounts, digital platforms, and computer hardware or software owned or operated by USI will be deemed to have occurred on campus. On-line and/or social media conduct may violate this Policy if it meets the definition of Prohibited Conduct. These postings may subject an individual to allegations of Prohibited Conduct or other misconduct, including violations of the **Data Communication and Computer Use Policy**.

This Policy applies to all University students, employees, or program participants at the University of Southern Indiana as well as affiliated vendors and volunteers. Other third parties are both protected by and subject to this Policy. However, the University's response may be impacted by the status of the parties involved and their relationship with the University. Under federal law, universities are required to distinguish between Prohibited Conduct that meets the definition and jurisdiction as outlined in the Title IX regulations and behaviors that do not meet that threshold but are otherwise prohibited by codes of conduct. Under Title IX, the University must dismiss a Formal Complaint or the part of the allegations in a Formal Complaint, if applicable, where Sexual Harassment is alleged and where:

1. The Respondent is not a current student or employee;
2. The Complainant is not a current student or employee;
3. The conduct alleged does not meet the definition of Sexual Harassment;
4. The alleged conduct did not occur in the University's education program or activity; or,
5. The alleged conduct did not occur in the United States.

These Complaints may still be adjudicated, however, through the grievance processes provided for in this Policy. However, Complainants alleging discrimination based on pregnancy, different treatment based on sex, or other forms of sex discrimination will be adjudicated under a separate process. Specifically, such complaints involving Respondents who are students will be addressed by the **Students Rights and Responsibilities**, and by the **University Handbook** for Complainants involving Respondents who are employees.

Because of the distinction between conduct "under Title IX" and other Prohibited Conduct, the University does not have a single adjudication mechanism for all complaints of sexual harassment. As a result, the procedures applicable to the adjudication of a complaint will

depend on whether the complaint meets the Title IX definition and jurisdictional threshold and the status of the parties. Additionally, the University will decide, on a case-by-case basis, which grievance procedures will be applied for incidents involving multiple policies.

Even if the Respondent is unknown or is not a member of the University community, USI will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. In addition, the University may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University property and/or events. When the Respondent is enrolled in or employed by another institution, the University can assist the Complainant in liaising with the appropriate individual at that institution.

This Policy distinguishes between reporting sexual harassment incidents to University officials and filing Formal Complaints. Reporting sexual harassment incidents informs USI of the incident, which allows the University to provide support and resources to the Complainant while not necessarily resulting in the initiation of the investigation and adjudication procedures described in the Policy.

## Prohibited Conduct and Definitions

### 1.3 Definitions of Prohibited Conduct

As outlined above, the University prohibits conduct as defined under Title IX, but also behaviors that fall outside of the scope of conduct prohibited by Title IX. If a report constitutes Prohibited Conduct under this Policy, the University will determine which adjudication process to utilize to resolve the complaint.

For purposes of this Policy, all of the following definitions constitute conduct to be “on the basis of sex.” The University will treat attempts to commit any Prohibited Conduct as if those attempts had been completed.

*Hostile Environment Sexual Harassment* means unwelcome verbal, written or physical conduct based on sex, sexual orientation and/or gender identity, that is severe, persistent, or pervasive and has the purpose or effect of unreasonably interfering with an individual's work or education (including living conditions) or that creates an intimidating, hostile or offensive environment.

To meet the threshold for Title IX, the unwelcome conduct must be determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

*Quid Pro Quo Sexual Harassment* is a form of harassment that consists of unwelcome sexual advances, requests for sexual favors, or other verbal, written, or physical conduct

of a sexual nature when a person affiliated with the University conditions the provision of an aid, benefit, or service of the University on an individual's participation in the unwelcome sexual conduct.

To meet the threshold for Title IX, an employee of the University must condition the provision of an aid, benefit, or service of the University on an individual's participation in the unwelcome sexual conduct.

*Sexual Assault* is defined as any sexual act directed against another person, without consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of temporary or permanent incapacitation. Violations of this policy shall include one or more of the following:

*Sexual Assault—Rape* is defined as 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 Complainant. This definition includes any gender of the Complainant or Respondent.

*Sexual Assault—Fondling* is defined as the touching of the private body parts, including but not limited to breasts, buttocks, or groin of another person, for the purpose of sexual gratification, without the consent of the Complainant.

*Sexual Assault—Incest* is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in Indiana.

*Sexual Assault—Statutory Rape* is sexual intercourse with a person who is under the statutory age of consent which is 16 years of age in the state of Indiana (which means the victim must be under 16); however, 14- and 15-year-olds may consent if the offender is less than four years older than the victim.

*Dating Violence* encompasses a wide range of behaviors including sexual assault, physical abuse, and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

*Domestic Violence* encompasses a wide range of behaviors including sexual assault, physical abuse, and other forms of violence committed by a current or former spouse or intimate partner of the Complainant; by a person with whom the Complainant shares a child in common; by a person who is cohabitating with or has cohabitated with, the

Complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of Indiana. For the purposes of this policy, incidents involving roommates who are not in a relationship as defined under this section will not be considered “domestic violence.”

*Stalking* is defined as 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. A 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. A reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

*Sexual Exploitation* means taking non-consensual or abusive sexual advantage of another person for one’s own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited. Examples include but are not limited to non-consensual photography, video-, or audio- recording of sexual images or activity, distributing images of sexual activity without consent, and observing a consensual sexual act without the prior knowledge or consent of all involved parties. In some circumstances, Sexual Exploitation may also meet the definition of hostile environment harassment and may be adjudicated under Title IX adjudication procedures.

#### 1.4 Definition of Consent

*Consent* is defined as an affirmative indication by words and/or actions of a voluntary agreement to engage in the particular sexual act or conduct in question. Consent for one sexual act or conduct does not constitute consent to all sexual acts or conduct. Consent can be withdrawn at any time, and once withdrawal of consent has been expressed, sexual activity must cease. Consent cannot be obtained through the use of force, threat, intimidation, or coercion. Silence or absence of resistance on the part of an individual does not constitute their consent. Consent cannot be given by someone who is incapacitated due to consuming drugs or alcohol or for any other reason (including but not limited to being unconscious, asleep, or otherwise unaware that sexual activity is occurring).

*Incapacitation* is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). While incapacitation may result from the use of alcohol and/or drugs, incapacitation is a state beyond drunkenness



or intoxication. Incapacitation may also exist because of a physical, mental, or developmental disability. The question of incapacitation will be examined objectively from the perspective of the Respondent i.e. whether a reasonable, sober person in place of the Respondent should have known the condition of the Complainant based on the apparent indications of incapacitation, which may include, but are not limited to, acting confused or incoherent, difficulty walking or speaking, and/or vomiting.

## 1.5 Policy Definitions

**Advisor** means any person who accompanies a Complainant or Respondent to any meetings, interviews, and/or hearings related to the Policy. A party may choose an advisor of their choice. Except for conducting cross-examination at a hearing following the Title IX Adjudication Proceedings, the advisor's role is limited to providing support and guidance to their advisee and the advisor may not speak or otherwise represent their advisee throughout the process. If a party does not have an advisor present at a hearing required under the Title IX Adjudication Proceedings, or is removed by the University for being disruptive, the University will provide, without fee or charge to that party, an advisor of the University's choice to conduct cross-examination on behalf of that party. A party is not required to have an advisor except for hearings utilizing the Title IX Adjudication Proceedings.

For both Title IX and Non-Title IX meetings, interviews and disciplinary proceedings, the advisor may talk quietly with the student or pass notes in a non-disruptive manner. In addition, while advisors may provide guidance and assistance throughout the process, all written submissions must be authored by the student.

**Appellate Decision-maker** refers to the individual(s) authorized to hear appeals of findings or dismissals. The appellate decision-maker may be an employee or may be a person external to the University. The appellate decision-maker will not be the same person as the decision-maker in a case.

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**Days** means business days.

**Decision-maker** refers to the individuals authorized to determine findings and sanctions. For student Respondent cases, the decision-makers at any hearings will be a three-person panel and could be comprised of both internal and external members. The University utilizes both internal and external decision-maker for employee cases. The decision-maker will not be the same person as the Title IX Coordinator or the investigator.

*Education program or activity* means locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sexual harassment occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.

*Formal Complaint* means a document filed and signed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct and requesting to proceed utilizing an Informal or Formal Resolution process.

*Investigator(s)* means the person assigned to conduct the investigation upon the signing of a Formal Complaint that is proceeding under the Formal Resolution process. The investigator may be an employee or may be a person external to the University.

*Parties* include the Complainant(s) and Respondent(s), collectively.

*Preponderance of the Evidence* is a standard of proof where it is more likely than not that a policy violation occurred.

*Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct under this Policy.

*Title IX Coordinator* is at least one official designated by the University to ensure compliance with Title IX and the University's Title IX program. References to the Title IX Coordinator may also encompass Title IX Deputy Coordinator for specific roles and tasks, and all persons mentioned herein are used interchangeably within the Policy.

*Witness* is anyone with relevant information about an incident. Character witnesses who do not have relevant information about the incident are not considered witnesses.

## Reporting

Any member of the USI community who believes that they have experienced sexual harassment, including sexual assault, domestic violence, dating violence, stalking, or sexual exploitation in violation of this Policy is encouraged to report the incident(s) as soon as possible. While reporting is encouraged, Complainant's have the right to report or not report the incident to the University and/or to law enforcement.

### 1.6 Reporting to Law Enforcement

The University encourages any student or employee who has experienced domestic violence, dating violence, sexual assault, or stalking to report the incident to law enforcement and encourages students who experience these behaviors to additionally consult their parents/guardians. Those in Public Safety or the Title IX Coordinator can

assist the Complainant in contacting appropriate law enforcement officials and in working with these officials to pursue criminal charges against the Respondent. Complainants also have the option to decline to notify law enforcement authorities.

Please note that reporting options are not mutually exclusive; both internal (University) and external (Law Enforcement) reporting options may be pursued at the same time. The local law enforcement office with jurisdiction over the University's geographic location is the Vanderburgh County Sheriff's Office. Allegations of criminal misconduct occurring within the Evansville city limits can be reported to the Evansville Police Department. Additionally, the Indiana State Police (ISP) has state-wide jurisdiction.

Public Safety (Available for Emergency or After-Hours Reporting)

From your cell phone or outside line: 812-492-7777

From campus phones: Ext 7777

Vanderburgh County Sheriff's Office Operation Center

5607 Highway 41 North

Evansville, IN 47711

Non-emergency telephone: 812-421-6201

Emergency telephone: 911

Evansville Police Department

15 Northwest Martin Luther King Jr. Boulevard Evansville, IN 47708

Non-emergency telephone: 812- 436-7896

Emergency telephone: 911

Indiana State Police (ISP) District 35 Police Post

19411 Highway 41 North

Evansville, IN 47725

Telephone: 812-867-2079 or 800-852-3970

While not required, the University strongly encourages anyone who becomes aware of behavior that may constitute a crime to report the incident to local law enforcement. However, Campus Security Authorities (CSAs) must report certain crimes reported to them to the appropriate reporting structure. The University can provide support, resources, and

assistance to those who do so. Regarding the involvement of law enforcement in matters involving Sexual Harassment, the Complainant has several options, including to: (1) notify law enforcement authorities; (2) be assisted by campus authorities in notifying law enforcement authorities if the Complainant chooses; or (3) decline to notify such authorities. The University will comply with the Complainant's request for assistance in notifying law enforcement in these matters to the extent legally permitted. The Complainant's choice to report to law enforcement will not impact the implementation of supportive measures if applicable.

Regardless of whether a Complainant chooses to notify law enforcement, it is important for a Complainant who has experienced sexual assault, dating violence, or domestic violence to seek medical attention and to preserve evidence potentially by obtaining a forensic medical exam. Additionally, Complainants are encouraged to preserve text messages, instant messages, social networking pages, or other communications, and keeping pictures, logs, or other copies of documents. Preserving evidence may assist in proving that an alleged criminal offense occurred or may be helpful in obtaining a protective order. The University will provide written information on where to obtain forensic examinations. Obtaining a forensic examination does not require the Complainant to file a police report, but a forensic examination can help preserve evidence in cases where the Complainant decides to file a police report at a later date.

Protective orders and peace orders may be sought through the court system. A Complainant interested in a mutual no-contact order at USI may contact the Title IX Coordinator.

Reports of violations under this Policy may also constitute violations of state and local law. University officials are required to document certain reports of sexual harassment for Clery Act reporting purposes. There will be no personally identifiable information about the Complainant shared in that report. If the University is required to notify the community of the incident, including recording the assault in the Daily Crime Log or through the issuance of a Timely Warning Notice, no identifying information will be included to the extent permissible by law.

In certain instances, the University may need to report potential criminal misconduct to law enforcement authorities even when the Complainant has decided not to do so. Such circumstances include those in which there is clear and imminent danger or risk to the Complainant and/or the University community, in which a weapon was involved with the incident, child abuse, or in which the allegations involve sexual harassment, and the Complainant is under the age of consent. The necessity to report an incident to law enforcement will be shared with the Complainant.

The University's Formal Complaint Resolution Process and the legal system work independently from one another, and the University will proceed with its process as

applicable, regardless of action or inaction taken by outside authorities. If a law enforcement investigation is initiated, the University may pause its procedures briefly at the request of law enforcement to facilitate their initial evidence gathering. Decisions made or sanctions imposed through the Formal Complaint Resolution Process are not subject to change if criminal or civil charges arising from the same misconduct are dismissed, reduced, or rejected in favor of or against the Respondent.

## 1.7 Medical Assistance

Complainants are encouraged to seek medical assistance in any instance of sexual harassment where physical or sexual assault is being alleged. Public Safety can help facilitate transportation to Deaconess Midtown Hospital, designated as one of the city's sexual assault and domestic violence treatment centers. Deaconess Midtown Hospital has trained nurses who perform the Sexual Assault Nursing Exam (SANE) and will provide victim services, including treatment of injuries and steps to address concerns of pregnancy (if applicable) and/or sexually transmitted infections.

- **Deaconess Midtown Hospital**  
600 Mary St  
Evansville IN 47710  
812-450-5000

Students may also schedule appointments at the Student Health Center. While the SANE program is not available at Student Health, they can provide non-emergency and on-going medical assistance from a healthcare provider on campus. All appointments are confidential

- **University Health Center**  
Lower level Health Professions Building  
Room HP 00091  
812-464-1862 (office)

It is recommended that the Complainant not take a shower or wash or discard clothing they were wearing at the time of the assault. All clothing (including underwear) should be put into a paper bag and brought to the hospital. Additionally, preservation of any related or electronic communications (e.g., pictures, videos, texts, social media posts, etc.) if recommended.

A Complainant does not have to decide whether or not to file criminal charges before obtaining a forensic exam. The exam is free, and the evidence will be kept in a secured locker indefinitely. There is no statute of limitations on filing a criminal complaint. If a

Complainant wishes to remain anonymous, she/he can have the exam listed as a Jane Doe/John Doe for confidentiality. Having a forensic exam is an important step to preserve evidence for a criminal offense if criminal charges are filed.

### 1.8 Confidential Reporting – Confidential Employees

If a student has experienced sexual harassment but does not want to report it to a University official, the student may meet with a confidential resource. All of the persons and organizations listed below are confidential for purposes of reporting sexual harassment. Reports made to a licensed counselor or a treating health care provider are confidential and will not be reported to University officials without the student's permission unless an imminent threat exists. Confidential resources may be required to report statistical information, without personally identifiable data, for Clery Act reporting.

- **USI Health Center**  
Health Professions 0091  
Telephone 812-465-1250
  
- **USI Counseling Center**  
Orr Center 1051  
Telephone: 812-464-1867
- **Employee Assistance Program (EAP)**  
The Standard  
<https://www.usi.edu/media/5617755/eap-ee-flyer.pdf>
  
- **Albion Fellows Bacon Center**  
P.O. Box 3164  
Evansville, IN 47731  
Telephone for Domestic Violence: 812-422-5622  
Telephone for Sexual Assault: 812-424-7273  
Toll-free: 800-339-7752
  
- **YWCA Evansville**  
118 Vine Street  
Evansville, IN 47708  
Telephone: 812-422-1191 or 866-367-9922
  
- **Holly's House**  
750 North Park Drive  
Evansville, IN 47710  
Telephone: 812-437-7233

- **Lampion Center**  
655 South Hebron Avenue  
Evansville, IN 47714  
Telephone: 812-471-1776
- **Southwestern (Behavioral Health)**  
415 Mulberry Street  
Evansville, IN 47713
  - Telephone: 812-423-7791  
24 Hour Suicide Hotline: 812-422-1100
- National confidential resources (available 24/7) include, but are not limited to: **RAINN (Rape, Abuse & Incest National Network)** which operates the **National Sexual Assault Hotline** at 1-800-656-HOPE (4673) and an online chat with a trained staff member; and **National Domestic Violence Hotline** at 1- 800-799-7233 or TTY at 1-800-787-3224 with an online chat option.

### 1.9 Reporting to Title IX

Anyone who believes they have been subjected to sexual harassment is encouraged to report these incidents to the Title IX Coordinator or Title IX Deputy Coordinator. Additionally, be aware that most USI employees are Responsible Employees and must report known incidents of sexual harassment to the Title IX Coordinator.

#### Title IX Coordinator and Deputy Coordinator

Reports may also be made directly to the Title IX Coordinator or a Deputy Coordinator.

- ***Title IX Coordinator for the University:***  
Chelsea Givens, Title IX Coordinator and Affirmative Action Officer  
Wright Administration Building, Forum Wing, Room 171A  
8600 University Boulevard  
Evansville, Indiana 47712  
812-464-1703  
[Title.IX@USI.edu](mailto:Title.IX@USI.edu) or [cckeaton@usi.edu](mailto:cckeaton@usi.edu)

### 1.10 Online and Anonymous Reporting Options

Reports may also be made anonymously or identified using the methods outlined below. It should be noted that the University's ability to investigate or act upon anonymous

reports may be limited. Anonymous reports that provide sufficient information to constitute certain criminal offenses will be reported without personally identifiable information for purposes of Clery Act reporting purposes.

*Reports related to sexual harassment, submitted through the reporting options below, do not constitute a Formal Complaint under this Policy.*

- **Sexual Misconduct/Harassment Report** (these reports can also be submitted anonymously). Found here: [https://cm.maxient.com/reportingform.php?UnivofSouthernIndiana&layout\\_id=1](https://cm.maxient.com/reportingform.php?UnivofSouthernIndiana&layout_id=1)

### 1.11 Additional Reporting Options

Filing a complaint under this Policy does not preclude an employee from filing a charge of employment discrimination with the EEOC, or the Indiana Civil Rights Commission, within the time frames established by those agencies. Complaints with the EEOC should be filed within 180 calendar days from the day the discrimination took place.

Filing a complaint under this Policy does not preclude a student from filing a written complaint with the U.S. Department of Education's Office for Civil Rights. Complaints should be filed within 180 calendar days of the date of the alleged discrimination.

#### EEOC (Indianapolis District Office)

101 West Ohio St, Ste 1900  
Indianapolis, IN 46204  
United States  
Phone: 1-800-669-4000  
Fax: 317-226-7953

<https://www.eeoc.gov/field-office/indianapolis/location>

#### Indiana Civil Rights Commission

100 North Senate Avenue  
Indiana Government Center North, Room N300  
Indianapolis, IN 46204  
1800-457-8283 or 317-232-2600  
<https://www.in.gov/icrc/>

#### U.S. Department of Education, Office for Civil Rights (OCR)

John C. Klczynski Federal Building  
230 S. Dearborn Street, 37th Floor



Chicago, IL 60604  
Phone: 312-730-1560  
[www2.ed.gov/ocr](http://www2.ed.gov/ocr)

### 1.12 Responsible Employees

The University has classified Responsible Employees as any employee who is not a Confidential Employee. Responsible Employees include, but are not limited to, faculty and staff, those with supervisory responsibilities, advisors to student organizations, Public Safety officers and staff, the Dean of Students Office, those in USI Housing and Residence Life including resident assistants, Athletics staff, and all employees serving as Campus Security Authorities (CSAs) when any disclosures to them are made in their capacity as an employee. Additionally, assigned deputies from the Sheriff's office are also considered Responsible Employees. In limited circumstances, a Confidential Employee may be considered a Responsible Employees if they receive details about an incident of sexual harassment outside of their role as a Confidential Employee.

The above persons are not confidential and must immediately report to the Office of Institutional Equity all relevant details about an incident of sexual harassment that involves any community member. These details include the names of the Complainant and Respondent, witnesses, dates, times, locations of the incident. All reports involving sexual harassment, sexual assault, domestic violence, dating violence and stalking made to Responsible Employees will be referred to the Title IX Coordinator so that Supportive Measures may be offered, and rights and options can be explained.

Generally, disclosures in climate surveys, classroom writing assignments, discussions, or group presentations, in conversations heard indirectly among students in a hallway, human subjects research, or at events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from the University.

### 1.13 Time Limits on Reporting

There is no time limitation on reporting incidents and/or filing complaints to the University. However, if the Respondent is no longer subject to the University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be limited. Regardless of the passage of time, the University will continue to offer Supportive Measures. When a report or Formal Complaint is affected by significant time delay, the University will typically apply the policy in place at the time of the complaint was filed.

## Supportive Measures and University Response to Reports

## 1.14 University Response to Reports

Upon receipt of a report, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, explain to the Complainant the process for filing a Formal Complaint as outlined in this Policy, and respect the Complainant's wishes with respect to whether to investigate unless the Title IX Coordinator determines it is necessary to pursue the complaint in light of a health or safety concern for the community. The Complainant will also be provided with a written explanation of rights and options.

## 1.15 Supportive Measures

Upon receiving a report or a Formal Complaint, the Title IX Coordinator will promptly offer Supportive Measures to the parties designed to restore or preserve access to the University's education program, activity, or work environment. Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge and can include actions deemed necessary to protect the well-being of the individuals involved in cases of sexual harassment, as well as the educational environment of the University community. These Supportive Measures may include but are not limited to:

- counseling,
- mutual no contact orders,
- relocating residence hall assignments,
- restricting access to certain campus buildings,
- changes to class schedules, assistance with rescheduling an academic assignment (paper, exam, etc.),
- tutoring support, changes to work schedules/situations,
- changes to work locations,
- leaves of absences,
- transportation assistance and escorts to and from campus locations,
- increased security and monitoring of certain areas,
- and other measures for safety as necessary.

Additionally, the University may act to remove a Respondent entirely or partially from its education program or activities on an emergency basis as outlined in “Emergency Removal” and “Administrative Leave” in this Policy.

The University will maintain the privacy of the Supportive Measures, provided that privacy does not impair the University’s ability to provide the Supportive Measures. The University will act to ensure as minimal an academic impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party.

#### 1.16 Emergency Removal

The University can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

#### 1.17 Administrative Leave

The University retains the authority to place an employee Respondent, including a student-employee, on administrative leave, consistent with the [University Handbook](#).

#### 1.18 Amnesty

Reporting suspected Sexual Harassment is important. The University recognizes that an individual who reports Sexual Harassment may be engaged in under-age drinking or drug use or other prohibited conduct at or near the time of the incident reported. To encourage reporting under these circumstances, the University will not take disciplinary action against a student reporter, student witness, student Complainant, or student Respondent for their personal use of alcohol or drugs or for other prohibited conduct at or near the time of the incident reported if such violations do not or did not subject other people to harm. Depending on the circumstances, similar consideration may be given to employee reporters, employee witnesses, employee Complainants, and employee Respondents.

The University may initiate an educational discussion or pursue other educational remedies regarding the alcohol and/or other drugs. Amnesty for any other policy violations will be considered on a case-by-case basis.

#### 1.19 Disability Accommodations and Interpretive Services

Those with a disability who desire an accommodation regarding this Policy, including parties and witnesses, may request reasonable accommodations for disclosed disabilities

to the Title IX Coordinator. It is the individual's responsibility, and not that of a university official, to request an accommodation. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even where the parties may be receiving accommodations in other University programs and activities. Similarly, those that are in need of interpretive services, should contact the Title IX Coordinator.

### 1.20 Prohibition on Retaliation

The University prohibits retaliation against any individual who makes a report, testifies, assists, participates, or refuses to participate in any manner in an investigation, proceeding, or hearing under this Policy. Specifically, no person may intimidate, threaten, coerce, harass, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX or this Policy.

Allegations of retaliation against students are handled in accordance with the normal rules and procedures of the student conduct process, and students alleged to have violated this policy may be charged with 16.7A Interfering with the discipline procedures or outcomes or 16.7B. Intimidation or retaliation. Any employee who is alleged to have violated this provision may also be subject to disciplinary action under the Whistleblower Policy.

Those found to have violated this policy's prohibition on retaliation will be subject to disciplinary action, up to and including termination of employment for employees and expulsion for students. Any person who believes that someone has been subjected to retaliation should promptly contact the Title IX Coordinator.

## Formal Complaints

### 1.21 Filing a Formal Complainant

The grievance process begins with a Formal Complaint, which is a document filed and/or signed by the Complainant or signed by the Title IX Coordinator alleging a violation of Prohibited Conduct under this Policy and requesting that the University investigate the allegation(s). A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. The Title IX Coordinator will assist the Complainant to ensure that the Formal Complaint is filed correctly.

### 1.22 When a Complainant Does Not Wish to Proceed

The University understands that some Complainants may seek confidentiality with respect to a report of sexual harassment, including requesting that they not be identified to the

Respondent. Due to the usually private nature of these actions and the need to ensure a fair process for all involved, the University may not be able to pursue charges of sexual harassment unless the Complainant is willing to be identified. However, in cases where there is a witness to the alleged violation, or in cases where pursuing the case is necessary to protect the University community, the University reserves the right to pursue a case to its conclusion. If the Complainant requests confidentiality or that a report not be pursued, the University will evaluate the request for confidentiality considering its obligation to maintain a safe campus environment for all. While rare, the University may determine that the Complainant's request for confidentiality cannot be complied with fully. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University's obligation to protect its community. The Title IX Coordinator, in consultation with other University officials, will make the determination.

When the Title IX Coordinator executes the Formal Complaint, they do not become the Complainant. Under these circumstances, the Complainant may have as much or as little involvement in the process as they wish. The Complainant retains all rights under this Policy irrespective of their level of participation.

In cases in which the Complainant requests confidentiality or no formal action and the circumstances allow the University to honor that request, the University will offer Supportive Measures to the Complainant and the community but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date.

### 1.23 Dismissals of a Formal Complaint

If the Complainant files a Formal Complaint, the Title IX Coordinator will review the complaint. The Title IX Coordinator must dismiss the Formal Complaint for the following reasons:

1. The Respondent is not a current student or employee;
2. The Complainant is not a current student or employee;
3. The conduct alleged does not meet the definition of Sexual Harassment;
4. The alleged conduct did not occur in the University's education program or activity; or,
5. The alleged conduct did not occur in the United States.

However, while the Formal Complaint will not proceed under the Title IX Adjudication Proceedings it may proceed under either the Non-Title IX Adjudication Proceedings

(Students) or Non-Title IX Adjudication Proceedings (Employees). Formal Complaints that do not on their face state Prohibited Conduct (for example complaints alleging discrimination based on pregnancy, different treatment based on sex, or other forms of discrimination or harassment), will not be adjudicated using this Policy but will be referred for review under the [Student Rights and Responsibilities](#) or the [University Handbook](#).

At the University's discretion, the Title Coordinator may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

1.
  1. a Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint;
  2. the Respondent is no longer enrolled at the University; or
  3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Upon any dismissal, the University will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

The dismissal determination of a Formal Complaint or any included allegations may be appealed following the appeals process outlined in this Policy. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

#### 1.24 Consolidation of Complaints

The University may consolidate Formal Complaints as to the allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party where the allegations of sexual harassment arise out of the same facts or circumstances. For complaints involving other University policies, a case-by-case determination will be made regarding adjudication proceedings which will be used in resolving the complaints and whether the complaints should be consolidated.

#### 1.25 Resolution Timeline

Upon the signing of a Formal Complaint, the University will make a good faith effort to complete the resolution process within a 60 day period, excluding appeal. The timeline may be extended for good cause. The University will notify the parties when a delay is anticipated and the rationale for any extensions or delays as appropriate, as well as an estimate of how much additional time will be needed to complete the process. While the University works with all parties involved in scheduling meetings throughout the process,

repeated delays in the process, including requests to reschedule meetings or hearings, and scheduling conflicts with advisors and/or support persons may not always be accommodated.

In cases where law enforcement directs the University to suspend its investigative efforts while criminal proceedings are pending, the University will cooperate with all investigative efforts and will promptly resume its own investigation or adjudication of the case when permitted to do so.

### 1.26 Confidentiality and Privacy

“Confidentiality” refers to the circumstances under which information will or will not be disclosed to others. “Privacy” refers to the discretion that will be exercised by the University in the course of any investigation or disciplinary processes under this Policy or a separate grievance procedure.

All actions taken to investigate and resolve concerns raised under this Policy shall be conducted in a way that respects the privacy of those involved, to the extent reasonably possible. The investigator will not discuss the matter with persons other than those involved in, affected by, or having information about the matter, or those necessary to implement the investigative process or the disciplinary procedures under this Policy.

Medical and counseling records, as well as those with a recognized legal privilege are confidential documents that parties will not be required to disclose. If one party chooses to provide written consent regarding disclosure, all parties will have access to those records.

Each party may disclose information to persons who need to know to participate in or administer the process, and/or to provide support and assistance. Parents or guardians of students will not be contacted by the University except if the student is a minor, at the student’s request, or in the case of a health and safety emergency or with written permission from the student.

All participants are expected to maintain confidentiality regarding the proceedings, except that the Complainant and the Respondent may not be required to maintain confidentiality as to the outcome of the proceedings and any directives regarding confidentiality shall not impede the parties’ ability to obtain and present evidence or otherwise support or defend their interests, to communicate with law enforcement, to communicate with legal counsel or another advisor under this Policy, or to seek counseling or support.

Students and employees may request that directory information on file be removed from public sources by request, in writing, and on an annual basis, to the Registrar (for students) or Human Resources (for employees).

Questions regarding confidentiality in a particular case should be directed to the Title IX Coordinator.

### 1.27 Rights of the Parties

In the event that a Formal Complaint is filed, the Complainant and the Respondent will receive a written notification of their rights regarding the adjudication process, to include the following:

- Complainants and Respondents will be treated equitably by the University which includes providing remedies to a Complainant where a determination of responsibility for sexual harassment has been made against the Respondent, and by following a grievance process that complies with this Policy.
- The University's procedures provide for a prompt, fair, equitable, and impartial investigation and resolution that begins promptly and is completed within reasonably prompt timeframes.
- Participants will be treated with dignity, respect, and sensitivity.
- A Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the applicable adjudication proceeding.
- The decision-makers will conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
- The University will use a resolution process that is consistent with University policies, transparent to the Complainant and Respondent, and in which the burden of proof and of gathering evidence rests with the University and not the parties.
- The parties will have the right to an advisor of the party's choosing during the grievance process. If a party does not have an advisor present at any Title IX Hearing per this Policy, the University will provide without fee or charge, an advisor of the University's choice for purposes of conducting cross-examination.
- Both the Respondent and Complainant have a right to similar and timely access to information that will be used at the hearing or adjudication process.
- The parties have the right not to be retaliated against for filing a Formal Complaint and/or for participating in an Informal or Formal Resolution process.



- Any false statements or knowingly submitting false information during the grievance process, constitutes a violation of Student Rights and Responsibilities Section 5.10A. False Information/Obstruction or the University Handbook which will result in a referral for disciplinary action that is separate and independent from the grievance process in this Policy. A finding of not responsible is not the same as a false report.

## Informal Resolution

### 1.28 Overview

Informal resolution is available only after a Formal Complaint has been filed, the Complainant and Respondent have been sent the Notice of Allegations, prior to a determination of responsibility, and if the Complainant and Respondent voluntarily consent to the process in writing. Informal resolution is not available in cases in which an employee is alleged to have sexually harassed a student.

The Title IX Coordinator will determine whether it is appropriate to offer the parties informal resolution in lieu of a formal investigation of the complaint. In the event that the Title IX Coordinator determines that informal resolution is appropriate, the parties will be provided written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. Both parties must provide voluntary, written consent to the informal resolution process.

With the voluntary consent of the parties, informal resolution may be used to agree upon disciplinary sanctions. Disciplinary action will only be imposed against a Respondent where there is a sufficient factual foundation and both the Complainant, and the Respondent have agreed to forego the additional procedures set forth in this school's policy and accept an agreed upon sanction.

Any person who facilitates an informal resolution will be trained and free from conflicts of interest or bias for or against either party.

Informal Resolutions may include, but are not limited to;

- Placing a Respondent on notice that, if such behavior has occurred or is occurring, such conduct should cease immediately;
- A written warning;

- Education and/or training for a Respondent and/or department;
- Permanent Supportive Measures for Complainant;
- Mediation or other informal communication between the Complainant and Respondent;
- Messaging to the campus community;
- Events and/or trainings offered to the campus community or particular departments;
- Referral and/or collaboration with another District department in order to address the allegations and eliminate any potential sexual misconduct; and/or other forms of resolution that can be tailored to the needs of the parties

## Formal Resolutions

### 1.29 Initial Assessment

Once a Formal Complaint is filed, the Title IX Coordinator will initiate a prompt review of the Formal Complaint to determine the next steps in the grievance process.

If a formal grievance process is preferred, the Title IX Coordinator determines which adjudication proceedings to follow, as outlined in “Scope and Jurisdiction” and “Dismissals of a Formal Complaint” sections of this Policy. If Informal Resolution is preferred, the Title IX Coordinator will determine whether the complaint is suitable for Informal Resolution and seek to determine if the Respondent is also willing to engage in an informal process.

### 1.30 Notice of Allegations

Once a Formal Complaint has been filed, the Title IX Coordinator shall provide the Complainant and Respondent with timely written notice of the allegations, including identities of the parties involved in the incident, if known, the date, time, and location of the alleged violation, if known, and the conduct allegedly constituting the violation.

Amendments and updates to the notice may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

### 1.31 Investigation

Following notice to the parties, the Title IX Coordinator will designate an impartial investigator(s) and coordinate the logistics of the investigation process. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. No unauthorized

audio or video recording of any kind is permitted during investigation meetings. The Title IX Coordinator will provide regular status updates to the parties throughout the investigation. The Complainant and Respondent will be notified of the date, time and location of each hearing, meeting, or interview that they are required or permitted to attend and shall have the right to be accompanied by their advisor and/or support person.

The Complainant and Respondent shall have the right to submit to the investigator evidence, witness lists, and suggested questions for the other party and witnesses. Evidence that is readily available, but not provided during the course of the investigation, is not considered to be new information and will not be allowed to be submitted at the hearing or as a basis for appeal.

Evidence regarding a party's medical history, including mental health counseling, treatment, or diagnosis, may not be considered without that party's written consent.

### 1.32 Evidence Inspection and Review Period

Prior to the conclusion of the investigation, the Complainant and Respondent will be given the opportunity to inspect and review all evidence that is directly related to the Formal Complaint. The parties will have 10 days to submit a written response. If a written response has been submitted, the investigator(s) will evaluate the information from the parties and may need to conduct further interviews to gather relevant evidence in the case. The investigator(s) will incorporate relevant elements of the parties' written responses and additional relevant evidence into the final investigation report, make any necessary revisions, and finalize the report.

### 1.33 Investigative Report

Following the evidence inspection and review period, the investigator(s) shall prepare a written report summarizing and analyzing the evidence, including both evidence indicating the alleged behavior occurred and that it did not occur. The Title IX Coordinator will provide the final investigation report to the parties. The parties will have 10 days to provide a written response to the final investigative report.

### 1.34 Assignment to Adjudication

At the conclusion of the investigation, if not previously determined, the Title IX Coordinator will make a final determination as to the appropriate adjudication procedures, specifically whether it will proceed under the Title IX Adjudication Proceedings, the non-Title IX Adjudication Proceedings for students, or non-Title IX Adjudication proceedings for employees.

At the hearing, the decision-maker have the authority to hear and make determinations on all allegations under this Policy and may also hear and make determinations on any additional alleged policy violations under other University policies that have occurred in concert with the Prohibited Conduct, even though those collateral allegations may not specifically fall within this Policy. The decision-maker will answer all questions of procedure and the parties will be notified in writing of what University policy violations will be heard at a consolidated hearing and the procedures that will be followed for each alleged policy violation.

At the time it is assigned to adjudication, both the Complainant and Respondent will be notified of the identity of the appointed decision-makers will be given an opportunity to request the removal or recusal of a decision-maker due to a bias or conflict of interest. A request for removal must state with specificity the grounds for removal. The Title IX Coordinator, or other appropriate university official will make the determination regarding removal.

## Adjudication Procedures

### 1.35 Title IX Adjudication Proceedings (Students and Employees)

All hearings described in this section apply to the adjudication of Formal Complaints alleging Prohibited Conduct under this Policy that meets the definitional and jurisdictional thresholds of sexual harassment as prescribed by Title IX.

For cases that have been determined to meet the threshold to be adjudicated under the Title IX Adjudication Proceedings, hearings are typically scheduled no less than 10 days following the sending the investigative report to the parties and their advisors.

While the hearing is not intended to be a repeat of the investigation, the parties will be provided with an equal opportunity for their advisors to conduct cross-examination of the other party and of relevant witnesses. A typical hearing may include: brief opening remarks by the decision-maker; questions posed by the decision-maker to one or both of the parties; cross-examination by either party's advisor of the other party and relevant witnesses; and questions posed by the decision-maker to any relevant witnesses.

#### *Pre-Hearing Conference*

In order to promote a fair and expeditious hearing, The Title IX Coordinator may request that the parties and their advisors attend a pre-hearing conference. The pre-hearing conference assures that the parties and their advisors understand the hearing process and allows for significant issues to be addressed in advance of the hearing.

#### *Hearing Procedures*

All hearings will be conducted in a live hearing format which means all parties and the decision-maker may be physically present in the same geographic location, or at the request of either party or the University, the parties may be located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or the witness answering questions.

At the hearing, the decision-maker is responsible for maintaining an orderly, fair, impartial, and respectful hearing. Participants at a live hearing are expected to abide by the Decision-maker's directions and determinations, maintain civility, and avoid emotional outbursts and raised voices. The Decision-Maker has broad authority to respond to disruptive or harassing behaviors, including taking a break in the hearing, the length of which will be determined by the Decision-maker. Additionally, the Decision-maker may exclude any offending person.

All hearings are closed to the public. A recording will be made by the University, but all other recordings are prohibited.

### *Evidentiary Considerations at the Hearing*

Any evidence that the decision-maker determines is relevant may be considered. The parties will have the opportunity to present the evidence they submitted, subject to any exclusions determined by the decision-maker. Generally, the parties may not introduce evidence, including witness testimony, at the hearing that they did not identify during the pre-hearing process. However, the decision-maker has discretion to accept or exclude additional evidence presented at the hearing. In addition, the parties are expected not to spend time on undisputed facts or evidence that would be duplicative.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The decision-maker will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

### *Cross-examination and the Advisor*

The Parties may have an advisor of their choice at the hearing. The advisor is responsible for conducting the cross-examination which includes asking the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. The advisor is not to represent a party, but only to relay the party's cross-

examination questions that the party wishes to have asked of the other party and witnesses. Advisors may not raise objections or make statements or arguments during the live hearing. If a party does not have an advisor, the University will appoint one on behalf of the party free of charge. In this capacity, the advisor will be appointed for the sole purpose of conducting cross examination of the other party and witnesses.

When a party's advisor is asking questions of the other party or a witness, the decision-maker will determine whether each question is relevant before the party or witness answers it and will exclude any that are not relevant or unduly repetitive and will require rephrasing of any questions that violate the rules of conduct. If the decision-maker determines that a question should be excluded as not relevant, they will explain their reasoning.

If a party's advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the University may require the party to use a different advisor. If an advisor refuses to comply with the rules of decorum, the University will provide that party with University appointed advisor of the University's choosing.

### *Participation*

If the Complainant, the Respondent, or a witness informs the school that they will not attend the hearing (or will attend but refuse to be cross-examined), the Title IX Coordinator may determine that the hearing may still proceed. The decision-maker may be allowed to rely on any statement or information provided by a non-participating individual in reaching a determination regarding responsibility. The decision-maker shall not, however draw any adverse inference in reaching a determination regarding responsibility based solely on the individual's absence from the hearing (or their refusal to be cross- examined).

Moreover, the decision-maker may reach a determination regarding responsibility based on evidence that does not constitute a statement by that party. The decision-maker may also consider evidence created by the party where the evidence itself constituted the alleged prohibited conduct. Such evidence may include, by way of example but not limitation, text messages, e-mails, social media postings, audio or video recordings, or other documents or digital media created and sent by a party as a form of alleged sexual harassment, or as part of an alleged course of conduct that constitutes stalking.

#### 1.36 Non-Title IX Adjudication Proceedings (Students)

All hearings described in this section apply to the adjudication of Formal Complaints alleging Prohibited Conduct under this Policy that do not meet the definitional or jurisdictional threshold for Title IX cases in which the Respondent is a student. For example, cases involving behaviors that occur off-campus may be adjudicated in accordance to these proceedings.

### *Pre-hearing Conference*

In order to promote a fair and expeditious hearing, the Title IX Coordinator may request that the parties and their advisors attend a pre-hearing conference. The pre-hearing conference assures that the parties and their advisors understand the hearing process and allows for significant issues to be addressed in advance of the hearing.

### *Hearing Procedures*

All hearings will be conducted in a live hearing format which means all parties and the decision-maker may be physically present in the same geographic location, or at the request of either party or the University, the parties may be located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or the witness answering questions.

At the hearing, the decision-maker is responsible for maintaining an orderly, fair, impartial, and respectful hearing. Participants at a live hearing are expected to abide by the Decision-maker's directions and determinations, maintain civility, and avoid emotional outbursts and raised voices. The Decision-Maker has broad authority to respond to disruptive or harassing behaviors, including taking a break in the hearing, the length of which will be determined by the Decision-maker. Additionally, the Decision-maker may exclude any offending person.

All hearings are closed to the public. A recording will be made by the University, but all other recordings are prohibited.

### *Evidentiary Considerations at the Hearing*

Any evidence that the decision-maker determines is relevant may be considered. The parties will have the opportunity to present the evidence they submitted, subject to any exclusions determined by the decision-maker. Generally, the parties may not introduce evidence, including witness testimony, at the hearing that they did not identify during the pre-hearing process. However, the decision-maker has discretion to accept or exclude additional evidence presented at the hearing. In addition, the parties are expected not to spend time on undisputed facts or evidence that would be duplicative.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The decision-maker will not require, allow,

rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

### *Advisor role at hearing*

The parties may have an advisor of their choice at the hearing. The advisor is not allowed to address the hearing panel or question witnesses. Advisors that refuse to comply with the University's established rules of decorum for the hearing will be removed from the process, and the process will continue.

### Participation

No party or witness is required to attend a hearing. However, the decision-maker will be allowed to rely on any statement or information provided by that non-participating individual in reaching a determination regarding responsibility.

### 1.37 Non-Title IX Adjudication Proceedings (Employees)

Formal Complaints alleging Prohibited Conduct under this Policy that do not meet the definitional or jurisdictional threshold for Title IX in cases in which the Respondent is an employee will be adjudicated in accordance with the policies and procedures outlined in the University Handbook <https://handbook.usi.edu/>, including, when applicable, the Equal Opportunity and Non-Discrimination Policy. <https://handbook.usi.edu/equal-opportunity-and-nondiscrimination-policy>

### 1.38 Deliberation, Decision-making, and Standard of Proof

The decision-makers will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The decision-makers will make findings of fact and determinations using a preponderance of evidence standard. The decision-makers will reach a decision by majority vote. If the Respondent is found responsible, the decision-makers will determine the appropriate sanctions.

If the decision-makers determine that Respondent is responsible for Sexual Harassment, they will deliberate further to determine appropriate sanctions. The University may implement any of the Supportive Measures outlined above at any time before or after any finding of responsibility. However, disciplinary sanctions and remedies may only be implemented after a finding of responsibility. Such sanctions and remedies may range from verbal warnings or mandatory trainings to employment termination for faculty, administrators, and support staff, and from verbal warnings or mandatory trainings to expulsion for students. The Title IX Coordinator is responsible for effective implementation of any remedies.



When a Respondent is found responsible for the prohibited behavior as alleged, sanctions account for the nature and severity of the violation, as well as the Respondent's discipline history (if any). Disciplinary actions or consequences can range from a conference with the Respondent and a school official through suspension or expulsion. When a Respondent is found responsible for the prohibited behavior as alleged, remedies must be provided to the Complainant. Remedies are designed to maintain the Complainant's equal access to education and may include supportive measures or remedies that are punitive or would pose a burden to the Respondent.

### 1.39 Remedies

Remedies, including sanctions, are designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include Supportive Measures however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for effective implementation of remedies.

### 1.40 Sanctions

Violations of this Policy are serious and the sanctions will take into account the nature and severity of the violation, as well as the Respondent's discipline history (if any) and may include one or more of the sanctions described below. Please note that this is not an exhaustive lists of sanctions.

#### Student Sanctions

- Warning (written): A student may be given a written warning. A written warning is a letter that makes a matter of record any incident of the Policy.
- Probation: Probation is a specified period of review and observation during which the student must demonstrate the ability to comply with University policies, and any other sanctions as outlined above and/or conditions which have been imposed in writing. The specific terms of the probation will be determined on a case-by-case basis. Notification may be given to other University officials as necessary. Probation may be supervised or unsupervised. Further inappropriate behavior may result in additional sanctions to be assigned, including suspension or expulsion.
- Suspension: A written notification of the termination of student status and exclusion from further enrollment for a specific period of time not less than one academic semester and not to exceed two academic years.
- A student who has been suspended must vacate campus within the time frame established.

- The notice will include the conditions for readmission which must be met prior to application for readmission. An interview with the Dean of Students or his/her designee will be required prior to acceptance of the student's application for readmission.
- The student's eligibility for any refund of tuition/fees will be subject to the University's normal withdrawal policy.
- The student must leave University residences and may not be on University-owned or -controlled property or attend University events.

Suspension is a matter of permanent record. A permanent record indicates that student behavior files may be retained indefinitely.

- **Expulsion:** A written notification that the student is permanently ineligible to return to the University. The student must leave University residences and may not be on University owned or -controlled property or attend University events. Petitions for re-enrollment will not be accepted. The expulsion will be recorded on the student's transcript as "May Not Register" and is a matter of permanent record.
- **Additional Sanctions:** The University reserves the right to issue additional sanctions including: loss of privileges, restitution, educational projects, parent/guardian notification, and assessments as appropriate.

## Employee Sanctions

If the decision-maker finds an employee responsible, the determination of sanctions and remedies will be made in consultation with Human Resources. As outlined in the [University Handbook](#), disciplinary action may include, but do not necessarily have to include, the following:

- verbal warning/counseling
- written warning
- suspension with/without pay
- Termination

### 1.41 Notice of Outcome

The Complainant and Respondent will be informed concurrently in writing of the outcome normally within ten (10) days after the conclusion of the adjudication process. Both parties will receive written notice of any sanctions imposed on the Respondent, except

that in cases of non-violent sexual harassment, the Complainant will only receive notice of any sanctions that relate directly to the Complainant. The written determination shall include the following:

- identification of the allegations allegedly constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination, conclusions regarding the application of the University's Prohibited Conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
- procedures and permissible bases for the Complainant and Respondent to appeal the determination.

## Appeals

### 1.42 Grounds for Appeal

Appeals are available after a complaint dismissal or after a final determination is made. Appeals can be made based on the following:

- Procedural irregularities in the investigation affecting the outcome;
- New evidence that could affect the outcome but was not reasonably available at the time the determination or dismissal was made; or
- The Title IX Coordinator, investigator, or decision-maker had a bias or a conflict of interest that affected the outcome.

### 1.43 Process for Appeals

Appeals must be submitted in writing to the Title IX Coordinator or designee within 5 days of receipt of written determination or dismissal. Parties will be given an opportunity to submit a written statement in support of or against the final determination made by the decision-makers.

## 1.44 Appeal Determinations and Written Outcome

An appellate decision-maker will issue the final decision at the same time to each party.

The appellate decision-maker that hears the appeal can take the following actions: affirm the original decision; affirm the original decision of responsibility for some or all of the charges and change the sanction (sanction may be reduced or increased); reverse the original decision of responsibility for some or all of the charges; or remand the matter to the original or new decision-maker for further consideration. Upon remand, if the original decision-maker affirms its prior decisions regarding responsibility and sanctions, the appellate decision-maker shall continue its review and render a decision on the original appeal(s). If the original decision-maker reverses or modifies its original decisions regarding responsibility and/or sanctions, each party shall have a right to submit a new appeal.

Except in cases involving the discovery of new evidence, the appellate decision-maker may consider, as appropriate given the grounds for appeal, the hearing record, the appeal letter and response, and the decision and rationale of the hearing panel. In cases where the appeal is based in whole or in part on a claim of newly discovered evidence, the appellate decision-maker will first determine if the offered evidence was not known at the time of the hearing and if it might impact the decision of responsibility or determination of sanction. If the appellate decision-maker determines that the evidence was not known at the time of the hearing and that it might impact the decision of responsibility or determination of sanction, the appellate body will remand the case to the original decision-maker for review and then will issue a new decision letter taking into account the newly discovered evidence.

The appellate decision-maker's decision will be communicated concurrently in writing to both the Respondent and the Complainant, normally within five (5) days the appeal was due and will include the rationale for the decision. The appellate decision is final, and no further appeal is permitted by either party.

## Additional Considerations

### 1.45 Resources, Education, and Prevention

Members of the University community are expected to respect the rights, dignity, and personhood of others. Any individual who experiences or is affected by discrimination or harassment, whether as a Complainant or a Respondent, may benefit from access to care and support resources through the University and the local community.

The University encourages all individuals to seek the support of and use all available internal and external resources, regardless of when or where any alleged incident occurred. The following is a non-exhaustive list of such resources available to the members of the University community.

#### Resources Specifically for USI Students:

- USI Counseling Center  
Orr Center 1051  
Telephone: 812-464-1867
- USI Religious Life Residence Life Resource Center  
Telephone: 812-464-1871
- USI Housing & Residence Life  
Your Resident Assistant or Area Coordinator  
Telephone: 812-468-2000
- USI Dean of Students  
Office University Center East 1229  
Telephone: 812-464-1862

#### Resources Specifically for Benefits-Eligible Faculty and Staff:

- Deaconess Concern Employee Assistance Program  
445 Cross Pointe Boulevard, Suite 330  
Evansville, IN 47715  
Telephone: 812-471-4611 or 800-874-7104
- EAP resources for employees through The Standard.  
Flyer for more information: <https://www.usi.edu/media/5617755/eap-ee-flyer.pdf>

Educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking are offered at New Student Orientation, in new employee orientation, in the residence halls/apartments, and on campus throughout the academic year. Such prevention and awareness programs include a statement that the University prohibits all forms of sexual harassment, definitions of various types of sexual harassment and of consent, safe and positive options for bystander intervention, and information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential sexual violence.

#### 1.46 Training of Officials

Investigations and hearings will be conducted by officials who have received annual training on a number of areas including, but not limited to, the definitions of sexual harassment, domestic violence, dating violence, sexual assault, and stalking; the scope of the University's education program or activity; how to conduct an investigation and grievance process, including hearings, appeals and Informal Resolution processes; how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-makers will also receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators will also receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence. Any materials used to train these individuals will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints for Prohibited Conduct under this section. All training materials will be posted on the Title IX website.

#### 1.47 Title IX Independence and Conflict of Interest

The Title IX Coordinator oversees the implementation of the Title IX process and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator, Deputy, and Title IX Officials receive annual training and are trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Chief Government and Legal Affairs Officer. Concerns of bias or a potential conflict of interest by the Title IX Deputy Coordinator should be raised with the Title IX Coordinator. Upon receiving a concern of bias or conflict of interest, the Chief Government and Legal Affairs Officer may designate an appropriate person to review and respond regarding the concerns raised, including recommending action to eliminate any bias or conflict of interest that might be found.

Title IX Coordinator may appoint external, independent parties with appropriate training to fill any of the defined roles within this Policy or related procedures. Any external parties retained under this section will agree to abide by all confidentiality provisions set forth within this Policy or related procedures and applicable law.

#### 1.48 Recordkeeping

The University will maintain for a period of seven years records of its Title IX Grievance Process, including:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;

3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom; and
6. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  1. The basis for all conclusions that the response was not deliberately indifferent;
  2. Any measures designed to restore or preserve equal access to the University's education program or activity; and
  3. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
7. All materials used to train Title IX Coordinators, investigators, decision-makers, hearing panel members, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on the Title IX website.

The University will also maintain any and all records in accordance with state and federal laws.

#### 1.49 Miscellaneous

This policy is not a contract. The University reserves the right to modify the application of these procedures consistent with applicable law to provide, in its discretion, equitable treatment of Complainant and Respondent.

Inquiries about the application of Title IX and its implementing regulations may be referred to USI's Title IX Coordinator and/or the Assistant Secretary for the Department of Education's Office of Civil Rights.