

# Discrimination, Harassment, and Sexual Misconduct

UA-03

## About This Policy

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**Responsible University Administrator:**

President, Indiana University University Faculty Council

**Policy Contact:**

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## Scope

1. This policy applies to all members of the Indiana University community, including:
  - a. All students
  - b. All academic appointees, staff and part time (hourly) employees
  - c. All others while on Indiana University property, including employees of third-party vendors and contractors, volunteers, and visitors, and others while involved in an off-campus Indiana University program or activity.
2. Other university policies and codes related to misconduct remain in effect for complaints of misconduct other than discrimination, harassment and/or sexual misconduct. However, any report or complaint of misconduct that includes elements of the **covered behaviors** below may be addressed in accordance with this policy and its related complaint resolution procedures.

## Policy Statement

### 1. OVERARCHING POLICY TENETS

- a. Indiana University prohibits discrimination and harassment on the basis of age, color, disability, ethnicity, sex, gender identity, gender expression, genetic information, marital status, national origin, race, religion, sexual orientation, or veteran status (“protected classes”) in matters of admission, employment, housing, services, and in its educational programs and activities.
- b. This policy governs the university’s response to all forms of **discrimination** and **sexual harassment**.



membership in a protected class; reducing someone's job responsibilities because of their membership in a protected class; denying someone access to an educational program based on their membership in a protected class; or denying someone access to a university facility based on their membership in a protected class.

- b. **Harassment:** Harassment prohibited under this policy is verbal or physical conduct, or conduct using technology, directed toward someone because of their membership in a protected class (or a perception that someone is a member of a protected class) that has the purpose or effect of substantially interfering with the individual's access to education or work, or creating an intimidating, hostile or offensive working environment or academic experience.
1. An individual's subjective belief that behavior is intimidating, hostile, or offensive does not make that behavior harassment. The behavior must create a hostile environment from both a subjective and objective perspective such that it unreasonably interferes with, limits, or deprives a member of the university community of the ability to participate in or to receive benefits, services, or opportunities from the university's education or employment programs and/or activities.
  2. In determining whether a hostile environment exists, the university will examine the context, nature, scope, frequency, duration, and location of incidents, as well as the relationships of the individuals involved, and apply the appropriate standard according to the applicable complaint resolution procedures.
  3. Examples of harassment can include offensive jokes, slurs, name-calling, intimidation, ridicule or mockery, or displaying or circulating offensive objects and pictures that are based on a protected class, including [sex and gender-based harassment](#).
  - 4.



4. Reports of sexual misconduct made to a [Responsible Employee](#) that are not initially reported to the [University Sexual Misconduct & Title IX Coordinator](#) and/or [Deputy Sexual Misconduct & Title IX Coordinator\(s\)](#) for the respective campus will be shared with those officials in a timely manner.
5. If a report of discrimination, harassment and/or sexual misconduct is not made initially to the Indiana University Police Department (IUPD), and the information indicates it may be a crime reportable under the [Clery Act](#), non-identifying information regarding the date, time, location and nature of the crime will be shared with IUPD for purposes of complying with the Clery Act.
6. If the university receives a report that indicates law enforcement should be informed and involved due to the potential threat to health and safety of an individual or the university community, the university may also share the identifying information needed for appropriate response by IUPD or law enforcement agency with jurisdiction.

c. **Sexual Misconduct Involving a Child/Minor:**

Sexual misconduct involving a child/minor (anyone under 18 years of age) must be reported. Indiana state law requires that any individual who has reason to believe that a child/minor is a victim of child abuse or neglect (including sexual misconduct) has an affirmative duty to make an oral report to the Indiana Department of Child Services hotline 1-800-800-5556 or to their local law enforcement or to IUPD. Failure to report may result in criminal charges. (See [PS-01, ReC9-m \[\(PSolving a Chi \) -6rere2pbn35.90301514 233.](#)

- c. Deputy Coordinators and other officials within the university will work with the University Coordinator to ensure that adequate education, training, and appropriate resources are available and provided on their respective campus.

**2. Equity Officials:**

- a. The University Director of Institutional Equity will be promptly informed of all reports of discrimination and harassment and will oversee the university's review1 0 AWevie.18g545 (educ

2. Following such disclosures, and when appropriate given the circumstances, the Responsible Employee should offer resources and reporting information and options.
3. These limited exemptions from reporting do not relieve a university employee from the obligation to report a disclosure of child abuse or neglect, which must be reported to appropriate officials in all instances. (See [Sexual Misconduct Involving a Child/Minor](#)).
4. Responsible Employees who are also [Campus Security Authorities](#) may still have an obligation to report information as required by the Clery Act and university policy [UA-16 \(Clery Act Compliance\)](#).

**i. Confidential Employees**

1. Certain university employees – based on their own professional licensure and the nature of their role on campus – have been identified by the university as Confidential Employees and are available to speak with individuals and maintain the individual's desire for anonymity and absolute confidentiality. These Confidential Employees are exempt from the reporting requirements that apply under this policy. Individuals who desire anonymity in discussing and seeking assistance should contact and/or be referred to a Confidential Employee.
2. Confidential Employees include, but are not limited to:
  - a. Licensed, professional





is filed, according to the specific needs and circumstances of the situation. These measures may vary depending on an individual's campus, an individual's needs and specific circumstances; assistance in changing academic, living, transportation, and/or work situations; counseling services; advocacy and advising services; and assistance in obtaining protective orders.

2. In the event a formal complaint is filed and an investigation is initiated according to the complaint resolution procedures below, all parties will be offered supportive measures, and interim measures may be taken, depending on the specific allegations and circumstances, and may include suspension of the Respondent from campus or some portion of campus, pending completion of the investigation. When contemplating [interim suspension of a student under this policy](#), campus interim suspension procedures will be followed.
3. In the event of a finding of responsibility following the university's adjudication of a formal complaint, the university will take any additional and necessary measures with respect to the Complainant and other members of the community, as well as the appropriate disciplinary action with respect to the individual found responsible.

## 2. SUMMARY OF RIGHTS OF THE COMPLAINANT AND RESPONDENT IN ALL COMPLAINT RESOLUTION PROCEDURES

The rights of the parties in any of the complaint resolution procedures under this policy include:

- a. To be fully informed of university policies and procedures, as well as the nature and extent of all alleged violations contained within the allegation.
- b. To be treated with respect.
- c. To be accompanied by an advisor present during all proceedings, investigation meetings, or related meetings.
- d. To have adequate, reliable, and impartial investigation and appropriate resolution of all complaints of discrimination, harassment and/or sexual misconduct.
- e.

These procedures cover discrimination against or harassment of an individual based on their age, color, disability, ethnicity, sex, gender identity, gender expression, genetic information, marital status, national origin, race, religion, sexual orientation, or veteran status.

## 2. Initial Assessment

- a. Upon receipt of a report or complaint of discrimination and/or harassment, the Equity Official or other designated investigator will conduct an initial assessment to determine whether it falls within the scope of this policy, whether the conduct alleged rises to the level of an allegation of discrimination or harassment, and whether these procedures apply. If the allegations on their face do not rise to the level of a policy violation, but do indicate a matter of concern, the Equity Official and other offices will work to address the

- b. For an appeal in a complaint against academic appointees, the campus Provost/Chancellor.
- c. For an appeal in a complaint against a Dean, a Vice Provost, or a Vice Chancellor, the President.
- d. For an appeal in a complaint against a Vice President, a Provost, a Chancellor, or equivalent, the Board of Trustees.

4. **Faculty Board of Review (FBR)** - In faculty cases, following the determination of the AO, the faculty member may request a review by the campus FBR, which may review and issue a recommendation to the AO.

**b. Interim Action**

If, upon the receipt of a complaint, the Equity Official determines a need for immediate interim action, e.g. removal, reassignment, administrative leave, or suspension, they shall consult with the DO and any other appropriate university officials. The DO may administer such interim action at any point in this process pending final outcome.

**c. Informal & Alternative Resolutions**

1. Informal Action:

In appropriate cases, the university may pursue informal actions in connection with reported discrimination or harassment, including when the individual who may have experienced the conduct does not wish to pursue a formal complaint, and/or when there is not enough information to proceed with a formal complaint resolution process against a known Respondent. Informal actions will not result in findings related to responsibility or in sanctions, nor will an informal action preclude further steps, including formal resolution, if a complaint is later made or additional information is received by the university. Informal actions can include, but are not limited to, educational meetings, additional training, and/or continued monitoring.

2. Alternative Resolution Options:

In appropriate cases, the university may pursue alternative resolution with the consent of all parties at any point in the complaint resolution process. These resolution options may include, but are not limited to facilitated mediation, development of an action plan, and other voluntary steps to resolve the matter. Under alternative resolution, the Complainant will not be required to resolve the problem directly with the Respondent, unless desired by the Complainant. All parties must be notified of the right to end the alternative resolution process at any time and to begin the formal process. Face-to-face mediation may not be required in cases involving any violence or where the complaint is made against an employee with a position of authority over the Complainant. The Investigator shall document the outcome of any alternative resolution and share with the Equity Official and the DO.

3. Acceptance of Responsibility:

In cases where the Respondent expresses a willingness to accept responsibility for any or all allegations, the Respondent may be offered the opportunity to bypass the remainder of the investigatory stage of the complaint resolution process and agree to receive a sanction from the DO. In such situations, the parties will each be provided the opportunity to submit a written statement to the DO for consideration in determining appropriate sanctions. In determining sanctions in such cases, the DO shall consider only the allegations and parties' written statements, the relevant facts gathered from the investigation, and past conduct history of the Respondent (if applicable). The right to appeal will be limited to an appeal on the grounds that the sanction is disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.

**d. Investigation**

1. Following the initial assessment, if a formal investigation is initiated, the Investigator(s) will notify the Complainant and the Respondent. The Respondent will be informed of the allegations made against them and shall be provided the opportunity to respond. The Respondent will be provided a date by which an appointment must be made to discuss the matter.



policy, the DO may address any such potential violation through other applicable university policies. Documentation regarding a finding of “No Violation” shall be maintained with the campus Equity Official’s office, and not in the employee’s personnel file.

b. Finding of a “Violation”

1.

## V. OVERARCHING PROCEDURES FOR RESPONDING TO REPORTS OF SEXUAL MISCONDUCT

### 1. Covered Behaviors

Covered sexual misconduct behaviors include sexual harassment, sexual assault, sexual exploitation, domestic violence, dating violence, and stalking. Some covered behaviors will have different definitions depending on whether the complaint is proceeding under Title IX or University Complaint Resolution Procedures.

### 2. Complaint

- a. When the campus Deputy Sexual Misconduct & Title IX Coordinator (“Coordinator”) receives a report alleging that a student or employee has engaged in sexual misconduct, and a Complainant can be identified, the Coordinator (or designee) will reach out to the Complainant and offer supportive measures and information about campus complaint procedures.
- b. The Coordinator will determine if the Complainant would like to submit a formal written complaint. If the Complainant does not wish to submit a formal written complaint, the Coordinator will assess this as a request for no university action (see [Request for No University Action](#)) and, if necessary and appropriate, may choose to be the named Complainant. If the neither the Complainant nor the Coordinator chooses to submit a formal written complaint, the allegations must not be heard under Title IX Complaint Resolution Procedures, but may be reviewed under other university procedures.
- c. If a formal written complaint has been submitted and signed by Complainant, the Coordinator will determine if the complaint meets the following criteria to proceed with the Title IX Complaint Resolution Procedures:
  1. At the time the formal written complaint is submitted and signed, the Complainant is a current IU student, employee, or is currently attempting to participate in an IU program or activity;
  2. The behavior alleged occurred as part of an IU program or activity; and
  3. The behavior alleged occurred against a individual in the United States.
- d. If these criteria are not met either initially or as determined later in the process, or if the Complainant withdraws their complaint, the complaint must be dismissed under the Title IX Complaint Resolution Procedures; however, the allegations may be assessed under the University Complaint Resolution Procedures or other procedures.
- e. Based on the allegations in the formal written complaint, the initial inquiry, and meeting with the Complainant, the Coordinator will also determine if the allegations fall into at least one of the following categories:
  1. The allegations include sexual assault, and/or dating violence, and/or domestic violence, and/or stalking;
  2. The allegations include quid pro quo sexual harassment;
  3. The allegations include sexual harassment that, if true, would be pervasive and severe and objectively offensive.
- f. If the allegations do not fall into any of the above categories, the complaint will be dismissed under the Title IX Complaint Resolution Procedures. In that event, the complaint may be investigated under University Complaint Resolution Procedures or other procedures if applicable. If the allegations include behavior in one or more of the above categories, or if the Coordinator needs more information to make this determination, then the complaint may proceed to the investigation stage under Title IX Complaint Resolution Procedures.

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- h. When allegations implicate both University and Title IX Complaint Resolution Procedures, as well as other policies and procedures, the investigation may proceed under the Title IX Complaint Resolution Procedures and include charges under other processes within this policy or other university procedures.

## VI. STUDENT SEXUAL MISCONDUCT – TITLE IX COMPLAINT RESOLUTION PROCEDURES

### 1. **Covered Behaviors**

The following behaviors, as defined below, are covered under these procedures:

- a. [Sexual Harassment](#)
- b. [Sexual Assault](#)
- c. [Dating Violence](#)
- d.







- c. If, after deliberations, the hearing panel determines that the information contained in the Final Investigative Report and gathered during the hearing does support by a preponderance of the evidence (more likely than not) that the Respondent is responsible for a violation of this policy and the Student Code, the hearing panel will propose sanctions. The proposed sanctions will be reviewed by the Sanctioning Official (or designee) to ensure that the sanctions are proportional to the severity of the violation and consistent with university standards. In the event of a conflict between the hearing panel and the Sanctioning Official, the Sanctioning Official will make the final decision regarding appropriate sanctions. The hearing panel will then notify the parties of the decision and sanctions by means of a written notice. The Respondent and/or the Complainant may request an appeal (see below).
- d. Possible sanctions for cases in which a student is found in violation of this policy and the Student Code for acts of sexual misconduct include, but are not limited to formal warnings, behavioral assessment and/or counseling, required educational training, disciplinary probation, suspension, and/or permanent expulsion.

## 8. Appeal

- a. The Respondent or the Complainant may appeal the decision of the Title IX hearing panel to the campus Student Affairs official (or designee). To initiate an appeal, a party must send written notice of appeal to the designated official. The written notice must include the basis(es) for seeking the appeal and include information to support such basis(es) (see below).

- b. **Timing:**

The notice of appeal must be filed no later than ten calendar days after the date the written decision sent. If an appeal is submitted by a party, all parties will be notified and given the opportunity to submit a written statement, and the underlying decision and any corresponding sanction will be held in abeyance until final notice of the appeal outcome. During this time, supportive measures in place will remain in effect (e.g., no contact order). If no written request for an appeal is received by the university within the time specified, the decision of the hearing panel and any sanction(s) imposed will be final and in effect.

- c. **Basis(es) for Appeal:**

The designated Student Affairs official will have the sole discretion in determining whether the basis for appeal has been met and whether the appeal can move forward. An appeal must be based on one or more of the following criteria:

1. Procedural irregularity that affected the outcome;
2. New evidence that was not reasonably available at time determination or dismissal made, that reasonably could have affected the outcome;
3. The Title IX Coordinator(s), Investigator(s), or hearing panelists had a conflict of interest or bias for or against the party(ies) that affected the outcome; and/or
4. The sanction imposed is disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.

- d. **Determination and Sanction**

1. If the basis for appeal has been met, the designated Student Affairs official will review the written appeal and the pertinent part of the sexual misconduct hearing panel record only. The designated Student Affairs official will not consider new evidence or information that is not a part of that record, unless the appeal is submitted on the basis of newly available information. The designated Student Affairs official must render a determination within 15 calendar days of receipt of the appeal and may take any of the following actions:
  - a. Affirm the original decision regarding responsibility.
  - b. Affirm the original decision concerning the disciplinary sanction(s) to be imposed.
  - c. Set aside the original decision regarding responsibility and impose a new decision.
  - d. Set aside the original decision regarding responsibility and order that a new sexual misconduct hearing be held before a new hearing panel.

- e. Set aside the original decision concerning the disciplinary sanction(s) to be imposed and impose a different sanction or set of sanctions.
2. The designated Student Affairs official will notify the Respondent and the Complainant, in writing, of the determination and will initiate the necessary procedures to effectuate the determination.
3. The determination of the designated Student Affairs official is final and there will be no further appeals.

#### **9. Notice**

The Complainant and the Respondent will be provided written notice of the outcome of the sexual misconduct hearing, the appeals process, and the appeal determination, if applicable. Written notice will be provided electronically through Indiana University email accounts.

#### **10. Requests for Accommodations and Special Circumstances**

- a. Just as students with disabilities may be eligible for accommodations in their classes, accommodations may be available for these procedures as well. Students with disabilities requesting accommodations and services under these procedures will need to present a current accommodation verification letter from the campus disability services office before accommodations can be considered and provided.
- b.



grounds that the sanction is disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.

## 5. Investigation

- a. Upon receipt of a signed formal complaint of sexual misconduct that falls within the scope of this policy, the university will take immediate and appropriate steps to investigate the allegations.
- b.

## 7. Selection of Advisors

At any point in the investigation, but prior to the hearing, the Complainant and Respondent may select an advisor of their choice, and at their expense, to advise them throughout the sexual misconduct process. If a party does not have an advisor for the hearing, the university will provide one for them. The university-provided Hearing Advisor is selected by the university and will not necessarily be an attorney, even if the other party is represented by an attorney. The Hearing Advisor will have the opportunity to review all evidence collected in the investigation.

## 8. Hearing

- a. The complaint resolution process will include a live hearing. The hearing will be closed except for the parties, their advisors, the DO and Hearing Official, and other university officials necessary to facilitate the proceedings. Witnesses will be expected to be available in-person or via video and audio for the portion of the hearing relevant to their statement. The hearing will be recorded. Deliberations following the hearing are not recorded.
- b. At the request of either party, the hearing may occur with the parties located in separate locations using technology for those involved to see and hear each other.
- c. Complainants and Respondents are not permitted to personally conduct questioning. Each party's Hearing Advisor may ask the other party and any witnesses all relevant questions, including those challenging credibility. Questions must be verbal, direct, and in real time. The Hearing Official and the DO will make determinations as to the relevance of questions and may exclude a question as not relevant.

## 9. Finding and Decision

- a. At the conclusion of a hearing, the DO, in consultation with the Hearing Official, shall deliberate without the parties present to determine responsibility for the specific allegations based on the evidence.
- b. If, after deliberations, the DO determines that the information contained in the Final Investigative Report and gathered during the hearing, does not support by a preponderance of the evidence (more likely than not) that the Respondent is responsible for a violation of university policies, the DO will notify both the Respondent and the Complainant by means of a written notice. The Complainant and/or Respondent may request an appeal (see below).
- c. If, after deliberations, the DO determines that the information contained in the Final Investigative Report and gathered during the hearing, does support by a preponderance of the evidence (more likely than not) that the Respondent is responsible for a violation of university policies, the DO will make the final determination regarding appropriate sanctions. The DO will then notify the parties of the determination and sanctions by means of a written notice. The Respondent and/ or the Complainant may request an appeal (see below).
- d. The DO will issue one of the following findings, using a preponderance of the evidence standard:
  1. Finding of "No Violation" of the university's policies:  
If there is a determination that the behavior alleged and investigated did not violate the university's policies, the DO shall provide the parties written notice of the finding. Documentation regarding a finding of "No Violation" shall be maintained with the Deputy Title IX Coordinator's office, and not in the employee's personnel file.
  2. Finding of a "Violation" of the university's policies:  
If there is a determination that the behavior alleged and investigated was in violation of the university's policies, the DO shall issue the finding and sanction(s) based on the level of sanctions set forth below.
- e. The DO shall provide the parties written notice of the finding and any sanctions, if applicable.

## 10. Sanctions

- a. Sanctions for violations of this policy include the following:
  1. Level One Sanctions include sanctions that do not directly modify job duties or actual salary, such as informal discussions, additional training, periodic review, letter to personnel file (other than to promotion and tenure dossier which is included in Level Two Sanctions below). Level One Sanctions shall not be appropriate in the event the Respondent was found responsible for sexual assault or other sexual violence.

2. Level Two Sanctions include sanctions that directly modify job duties, salary or job status, including affecting compensation, consideration in tenure or promotion decisions, suspension, and termination.
- b. When determining the appropriate sanctions, consideration shall be given to the nature and severity of the behavior and the existence of any prior incidents or violations.

#### 11. Appeals

- a. Following the decision, either party may request an appeal to the Appellate Officer (AO) on the basis of:
  1. Procedural irregularity that affected the outcome;
  - 2.



and one designated university official have the right to present a statement to the FBR in writing or orally, either personally or through an advisor. If any participant elects to make a statement, the FBR may pose questions related to their statement, but the other participants may not.

- e. The FBR must be concluded promptly, and generally within 60 days of the request, absent special circumstances. After review, the FBR may recommend one of the following to the AO:
  1. Affirm the AO's determination.
  2. Recommend an alternative finding and/or sanction.
  3. Recommend that the determination be set aside and a new investigation be conducted. (This option will generally be reserved for cases where significant procedural error has been identified and determined to have affected the outcome).
- f. To the extent possible, the parties will be notified simultaneously in writing of the FBR's recommendation to the AO.
- g. Upon receipt of the FBR's recommendation, along with any materials considered by the FBR, the AO will

- c. **Sanctioning Official** – Upon a finding of responsibility by the Hearing Panel, the Sanctioning Official will review the proposed sanctions and make the final determination of the sanctions to be applied to the Respondent.
- d. **Student Affairs Official** – The Student Affairs Official, which may be the campus dean of students, or an appropriate designee, may review the decision and sanction following an appeal by either party, and make a subsequent determination.

### 3. Investigation

- a.

The Complainant and Respondent may have an advisor throughout the complaint resolution process that may accompany them during proceedings. Advisors are not permitted to speak on behalf of the parties or conduct any questioning at the hearing.

#### **5. Alternative Resolution Options**

- a. In appropriate cases, including cases where the Respondent expresses a willingness to accept responsibility for any or all charges, the university may pursue alternative resolution with the consent of all parties at any point in the complaint resolution process. Alternative resolution options may include, but are not limited to, acceptance of responsibility (see below), mediation, development of action plans, voluntary resolutions, appropriate sanctions, and/or appropriate remedies.
- b. Under any alternative resolution, the Complainant will not be required to resolve the problem directly with



- b. Affirm the original decision concerning the disciplinary sanction(s) to be imposed.
  - c. Set aside the original decision regarding responsibility and impose a new decision.
  - d. Set aside the original decision regarding responsibility and order that a new sexual misconduct hearing be held before a new hearing panel.
  - e. Set aside the original decision concerning the disciplinary sanction(s) to be imposed and impose a different sanction or set of sanctions.
2. The designated Student Affairs official will notify the Respondent and the Complainant, in writing, of the determination and will initiate the necessary procedures to effectuate the determination.
  3. The determination of the designated Student Affairs official is final and there will be no further appeals.

## 9. Notice

The Complainant and the Respondent will be provided written notice of the outcome of the sexual misconduct hearing, the appeals process, and the appeal determination, if applicable. Written notice will be provided electronically through Indiana University email accounts.

## 10. Requests for Accommodations and Special Circumstances

- a. Just as students with disabilities may be eligible for accommodations in their classes, accommodations may be available for these procedures as well. Students with disabilities requesting accommodations and services under these procedures will need to present a current accommodation verification letter from the campus disability services office before accommodations can be considered and provided.
- b. In appropriate circumstances, the university may utilize language translation services to assist in the investigation and/or hearing proceedings.

## 11. Expectations for Respectful Process

Every individual involved in a proceeding under this policy is entitled to be treated with respect. All parties and their advisors are required to follow the rules and procedures put in place to ensure a fair and respectful process. No one may intentionally harass or intimidate any party or witness, and university officials are authorized to halt such behavior.

## IX. ACADEMIC APPOINTEE AND STAFF SEXUAL MISCONDUCT – UNIVERSITY COMPLAINT RESOLUTION PROCEDURES

### 1. Covered Behaviors

The following behaviors, as defined below, are covered under these procedures:

- a. [Sexual Harassment](#)
- b. [Sexual Assault](#)
- c. [Sexual Exploitation](#)
- d. [Dating Violence](#)
- e. [Domestic Violence](#)
- f. [Stalking](#)

### 2. Officials

For the purpose of these procedures, relevant officials with key responsibilities are:

- a. **Investigator** – The Deputy Coordinator for the respective campus, or an appropriate designee, will conduct fact-finding as the Investigator and may coordinate with other offices such as human resources, academic affairs, and student affairs.
- b. **Decisional Official (DO)** – The DO will issue the decision determining responsibility and assigning appropriate sanctions, if applicable. The DO will be as follows, or an appropriate designee:
  1. For complaints against staff employees, including temporary (hourly), the DO will be the university employee relations director.

2. For complaints against academic appointees, the DO will be the campus Vice Provost/Vice Chancellor for Academic Affairs.
  3. For complaints against a Dean, a Vice Provost, or a Vice Chancellor, the DO will be the campus Provost/Chancellor.
  4. For complaints against a University Vice President, a Provost, a Chancellor, or equivalent, the DO will be the President.
  5. For complaints against the President, the DO will be the Board of Trustees.
- c. **Appellate Official (AO)** – The AO may review the decision of the campus DO, following appeal by either party, and make a subsequent determination. The AO will be as follows, or an appropriate designee:
1. For an appeal in a complaint against staff employees, including temporary (hourly), the Vice President of Human Resources.
  2. For an appeal in a complaint against academic appointees, the campus Provost/Chancellor.
  3. For an appeal in a complaint against a Dean, a Vice Provost, or a Vice Chancellor, the President.
  4. For an appeal in a complaint against a Vice President, a Provost, a Chancellor, or equivalent, the Board of Trustees.
- d. **Faculty Board of Review (FBR)** – In faculty cases, following the decision of the AO, the faculty member may request a review by the campus FBR, which may review and issue a recommendation to the AO.

### 3. Initial Assessment

- a. Upon receipt of a report alleging that an employee has engaged in sexual misconduct, an Investigator will conduct an initial assessment to determine whether it falls within the scope of this policy, and whether the conduct alleged rises to the level of an allegation of sexual misconduct. If a complaint raises allegations that are outside the scope of this policy, but may violate other university policy(ies), the Investigator will refer the complaint to the appropriate university office.
- b. In the event the Investigator determines not to pursue an investigation under this policy, that decision may be appealed by either party to the DO, requesting a review of the decision not to proceed with an investigation. Upon review, the DO may uphold that decision or order an investigation to proceed.
- c. In the event the Investigator determines that the allegations fall within the scope of this policy, the process that follows shall apply.

### 4. Informal & Alternative Resolutions

- a. Informal Action:  
In appropriate cases, the university may pursue informal actions in connection with reported sexual misconduct, including when the individual who may have experienced the conduct does not wish to pursue a formal complaint, and/or when there is not enough information to proceed with a formal resolution process

c. **Acceptance of Responsibility:**

1. In cases where the Respondent expresses a willingness to accept responsibility for any or all allegations in a case, the Respondent will be offered the opportunity to bypass the remainder of the investigatory stage of the grievance process and agree to receive a sanction from the DO. In such situations, the parties will each be provided the opportunity to submit a written statement to the DO for consideration in determining appropriate sanctions.
2. In determining sanctions in such cases, the DO shall consider only the allegations and parties' written statements, the relevant facts gathered from the investigation, and past conduct history of the Respondent, if applicable. The right to appeal will be limited to an appeal on the grounds that the sanction is disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.

**5. Interim Action**

If, upon the receipt of a complaint, the Coordinator, or their designee, determines a need for immediate interim action, e.g. removal, reassignment, administrative leave, or suspension, they shall consult with the DO and any other appropriate university officials. The DO may administer such interim action at any point in this process pending final outcome.

**6. Investigation**

- a. Following the initial assessment, if a formal investigation is initiated, the Investigator(s) will notify the Complainant and the Respondent. The Respondent shall be informed of the allegations made against them and shall be provided the opportunity to respond. The Respondent will be provided a date by which an appointment must be made to discuss the matter.
- b. The Investigator will conduct fact-finding as to the allegations made against the Respondent and will preserve all evidence collected.
- c. The investigation may include, but is not limited to, interviews with the Complainant, the Respondent, and other witnesses identified as having information relevant to the allegations made, as well as the examination of written statements by the parties, relevant documents, and other relevant information. Information for the investigation may be provided by Complainant, Respondent, witnesses identified by any party, or the university. The Investigator shall ensure that the Respondent has been informed of all allegations raised and the name of the Complainant(s), and is provided the opportunity to respond.
- d. Prior or subsequent conduct of the Respondent may be included in the investigation and considered in determining pattern, knowledge, intent, or motive. The determination of the relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct.
- e. Information related to prior sexual history of the parties will be prohibited except in very limited circumstances regarding prior sexual history between the parties where such information may be relevant to the issue of consent. However, consent will not be assumed based solely on evidence of any prior sexual history.
- f. All members of the university are expected to cooperate fully with the investigative process. Interference with the investigation may result in disciplinary measures pursuant to applicable university policy and procedure. Any individual believed to have information relevant to an investigation may be contacted and requested to make an appointment to discuss the matter.

**7. Report of Investigation:**

- a. Following the investigation, the Investigator will provide an Investigation Report to the parties. The parties will be provided 10 calendar days to review the Investigation Report and any attachments. Parties may provide any additional and/or clarifying information to the Investigator and request access to the Investigation File. This period of 10 days will be the final opportunity for parties to submit any additional information to the Investigator.
- b. The Investigation Report will include:
  1. The specific allegation(s);







- g. Upon receipt of the FBR's recommendation, along with any materials considered by the FBR, the AO will make a final determination within 10 calendar days, indicating one of the following:
1. Affirming the prior determination on appeal.
  2. Setting aside the prior determination on appeal and imposing a new finding and/or sanctions.
  3. Setting aside the prior determination on appeal and ordering a new investigation (this option will generally be reserved for cases where significant procedural error has been identified to have affected the outcome).
- h. If the FBR recommends that the AO's prior determination be modified, but the AO affirms the prior determination, the final determination shall be made by the President. To the extent possible, the parties will be notified simultaneously in writing of the President's final determination. This concludes the appeal process.

## 12. Expectations for a Respectful Process

Every individual involved in a proceeding under this policy is entitled to be treated with respect. All parties and their advisors are required to follow the rules and procedures put in place to ensure a fair and respectful process. No one may intentionally harass or intimidate any party or witness, and university officials are authorized to halt such behavior.

## Definitions

**Advisor:** Any individual who may assist, support, guide, and advise the Complainant or Respondent during the investigation, conduct proceedings, and/or related meetings. An Advisor serving in this role, who may otherwise be a Responsible Employee, not need report sexual misconduct when they learn about prohibited conduct i) that is directly related to the case in which they are serving as an advisor; ii) from the party who they are serving as an advisor to; and iii) in the course of their advising.

**Campus Security Authority (CSA):** A term used in the Clery Act to describe someone who has significant responsibility for student and campus activities. The Clery Act (34 CFR 668.46) defines a CSA as:

1. A campus police department or a campus security department of an institution.
2. Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department, such as an individual who is responsible for monitoring entrance into institutional property.
3. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
4. An official of an institution who has significant responsibility for student and campus activities, including but not limited to student housing, student discipline, and campus judicial proceedings.

Pastoral and professional counselors are not considered a Campus Security Authority when acting in their roles as a pastoral or professional counselor.

**Clery Act:** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. section 1092(f)), a federal law that requires institutions such as Indiana University to collect and publish statistics for certain crimes reported to have occurred on the university's "Clery Geography" (i.e., occurring on campus, on public property within or immediately adjacent to campus, and on other non-campus university property), for the purpose of informing current and prospective students, faculty or staff. Each Indiana University campus publishes an Annual Security Report under the Clery Act, which contains these crime statistics, as well as campus-specific information on resources, campus emergency responses, safety and security policies, and disciplinary procedures. These crime statistics include, but are not limited to domestic violence, dating violence, sexual assault, and stalking. Clery also requires "timely warnings" be issued to the campus community for crimes occurring on Clery Geography that are considered a serious or continuing threat to students, faculty or staff. Under Clery, any good faith report of a crime occurring on Clery Geography must be included in the statistical data.

**Complainant:** An individual who may have experienced discrimination, harassment and/or sexual misconduct. A Complainant may choose whether or not to file a formal complaint. The university may serve as the Complainant when an individual(s) who has experienced the alleged discrimination, harassment and/or sexual misconduct does not wish to fully participate and the university has determined it is necessary to move forward under the applicable procedures.

**Complaint (formal):** A document submitted and signed by a Complainant or signed by the appropriate Title IX Coordinator alleging conduct that may be in violation of this policy against a Respondent and requesting that the university investigate the allegation.

**Confidential Employees:** [\[see above\]](#)

**Consent:** An agreement expressed through affirmative, voluntary words or actions, and mutually understandable to all parties involved, to engage in a specific sexual act at a specific time

1. Consent can be withdrawn at any time, as long as it is clearly communicated.
2. Consent cannot be coerced or compelled by force, threat, deception or intimidation.
3. Consent cannot be given by someone who is incapacitated, as defined below.
4. Consent cannot be assumed based on silence, the absence of “no” or “stop,” the existence of a prior or current relationship, or prior sexual activity.

**Incapacitation:** An individual is incapable of consent if they are unable to understand the facts, nature, extent, or implications of the situation due to drugs, alcohol, a mental disability, being asleep or unconscious, or based on their age (pursuant to Indiana law). With respect to alcohol and drugs, intoxication and/or impairment is not presumptively equivalent to incapacitation. Consent does not exist when the individual initiating sexual activity knew or should have known of the other individual’s incapacitation.

#### **Dating Violence:**

##### ***FOR TITLE IX COMPLAINT RESOLUTION PROCEDURES:***

Violence committed by an individual 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 individuals involved in the relationship. For the purposes of this definition—

1. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
2. Dating violence does not include acts covered under the definition of domestic violence.

##### ***FOR UNIVERSITY COMPLAINT RESOLUTION PROCEDURES:***

Violence or the threat of violence committed by any individual who is or has been in a relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interactions between the individuals involved in the relationship.

**Days:** References to days shall mean calendar days unless business days is expressly specified.

**Discrimination:** [\[see above\]](#)

#### **Domestic Violence:**

##### ***FOR TITLE IX COMPLAINT RESOLUTION PROCEDURES:***

Violence committed which would constitute felony or misdemeanor crime of violence under criminal law:

1. By a current or former spouse or intimate partner of the Complainant;
2. By a person with whom the Complainant shares a child in common;

3. By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
4. By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Indiana;
5. By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Indiana.

***FOR UNIVERSITY COMPLAINT RESOLUTION PROCEDURES:***

Violence or the threat of violence by an individual against another individual who:

1. is or was a current or former spouse or intimate partner of the Complainant;
2. is or was living with Complainant as if their spouse or intimate partner;
3. has a child in common with;
4. is a minor subject to the control of; or
5. is an incapacitated individual under the guardianship or otherwise subject to the control of the other individual regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution.

**Employee:** This term shall be synonymous with and include all employees working for Indiana University – academic employees, including faculty and other instructors, and staff, including full-time, part-time, and part time (hourly) employees at any university campus or working on behalf of the university.

**Equity Officials:** The individual designated by the university to respond to allegations of discrimination or harassment based on a protected class(es) against members of the university community. In some circumstances, this can include their designee. Members of the university community may contact the University or campus Equity Official regarding the applicable policy and processes.

**Finding of Responsibility or Finding of a Violation:** Means that it is more likely than not that the Respondent has engaged in the alleged conduct in violation of this policy. A preponderance of the evidence standard must be used when determining responsibility for violations under this policy.

**Formal Complaint:** Means a document signed and submitted by the Complainant, and alleging discrimination, harassment, sexual misconduct and/or retaliation by a Respondent and requesting that the university investigate the allegation(s). The complaint may be submitted in person, by mail, or by electronic mail, to the appropriate Coordinator or Equity Official identified in this policy. (In some circumstances, the Coordinator or Equity Official may file a formal complaint to initiate a formal investigation.)

**Force:** The use of physical force which overcomes the individual's resistance; or the threat of physical force, express or implied, against the individual or a third-party that places the individual in fear of death or in fear of serious personal injury to the individual or a third-party where the individual reasonably believes that the actor has the present or future ability to execute the threat.

**Harassment:** [\[see above\]](#)

**Hearing Advisor:** A person chosen by a party, or appointed by the institution if the party does not identify one, to accompany the party to their Title IX hearing for the purpose of conducting questioning of the other party(ies) and witness(es).

**Indiana University Program or Activity:** A program or activity sponsored, conducted, or authorized by Indiana University, including but not limited to, classes, internships, practica, field trips, study abroad programs, student teaching, or research, or a program or activity sponsored, conducted, or authorized by the university. For Title IX purposes, "program or activity" includes those that occur in a building owned or controlled by a student organization that is officially recognized by the university.

**Indiana University Property:** Buildings, grounds, and land that are owned by Indiana University or controlled by Indiana University via leases or other formal contractual arrangements to house ongoing university operations.

**Interim Suspension:** Temporary removal of a Respondent pending completion of an investigation. The

and, for Title IX complaints, shall include an individualized assessment and determination 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.





**Student Affairs Officer:** An individual authorized by the university and the campus chancellor or provost to be responsible for the administration of the Student Code of Rights and Responsibilities on a campus, or, in certain circumstances that individual's designee.

**Sanctions**

1. Sanctions for violations of this policy include the following:
  1. Level One Sanctions include sanctions that do not directly modify job duties or actual salary, such as informal discussions, additional training, periodic review, letter to personnel file (other than to promotion and tenure dossier which is included in Level Two Sanctions below). Level One Sanctions shall not be appropriate in the event the Respondent was found responsible for sexual assault or other sexual violence.
  2. Level Two Sanctions include sanctions that directly modify job duties, salary or job status, including affecting compensation, consideration in tenure or promotion decisions, suspension, and termination.
  3. When Level Two Sanctions do not result in termination, consideration should be given to the role(s) in which a faculty or staff member serves related to students, including advising, mentoring, committee work, and other roles both within and in addition to the primary employment position.
2. When determining the appropriate sanctions, consideration shall be given to the nature and severity of the behavior and the existence of any prior incidents or violations.

**Additional Contacts**

Title IX Coordinator

Jennifer Kincaid  
 University Director of Institutional Equity & Title IX Coordinator  
 Carmichael Center  
 Suite L03  
 530 E. Kirkwood Ave.  
 Bloomington, IN 47408  
 812-855-4889  
[oiie@iu.edu](mailto:oiie@iu.edu)

Deputy Sexual Misconduct & Title IX Coordinators

IUB	Jennifer Kincaid, University Director of Institutional Equity & Title IX Coordinator	812-855-7559	<a href="mailto:oiie@iu.edu">oiie@iu.edu</a>
IUB			



	Anne Mitchell, Director, Office of Equal Opportunity	317-278-9230	<a href="mailto:amitch29@iupui.edu">amitch29@iupui.edu</a>
IUE	Tracy Amyx, Director of Affirmative Action/EEOC Officer	765-973-8402	<a href="mailto:tramyx@iue.edu">tramyx@iue.edu</a>
IUK	Sarah Sarber, Chief of Staff/Deputy Title IX Coordinator	765-455-9204	<a href="mailto:shawkins@iuk.edu">shawkins@iuk.edu</a>
IUN	Lita Pener, Director of Institutional Equity and Title IX	219-980-6705	<a href="mailto:lpener@iu.edu">lpener@iu.edu</a>
IUS	James J. Wilkerson, Director, Office of Equity and Diversity	812-941-2306	<a href="mailto:eqdivix@ius.edu">eqdivix@ius.edu</a>
IUSB	Laura Harlow Director of Diversity and Affirmative Action; Director of the Office of Student Conduct	574-520-5536	<a href="mailto:lewhitne@iusb.edu">lewhitne@iusb.edu</a>

IU Police Departments

Superintendent of Public Safety	Benjamin Hunter	812-855-4296	
IU Office of Public Safety	Richard Erny	317-274-4230	<a href="mailto:rcerny@iu.edu">rcerny@iu.edu</a>
IU Office of Public Safety			

Campus Student Affairs

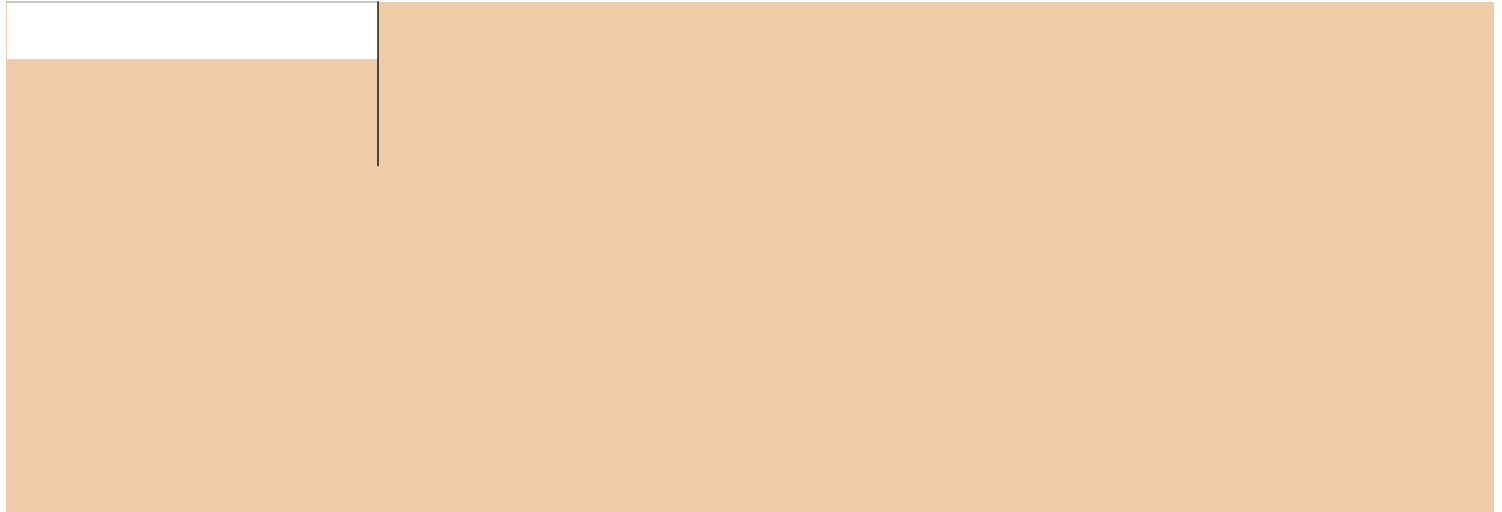
IUB	Dave O'Guinn, Vice Provost for Student Affairs and Dean of Students	812-855-8188	<a href="mailto:vpsa@indiana.edu">vpsa@indiana.edu</a>
IUPUI	Eric Weldy, Vice Chancellor Division of Student Affairs	317-274-3290	<a href="mailto:eweldy@iupui.edu">eweldy@iupui.edu</a>
IUE	Amy Jarecki, Dean of Students	765-973-8525	<a href="mailto:ajarecki@iue.edu">ajarecki@iue.edu</a>
IUK	Audra Dowling, Dean of Students	765-455-9204	<a href="mailto:iukdos@iuk.edu">iukdos@iuk.edu</a>
IUN	Alexis Montevirgen, Vice Chancellor for Student Affairs	219-980-6586	<a href="mailto:nwstuaff@iun.edu">nwstuaff@iun.edu</a>
IUS	Amanda Stonecipher, Vice Chancellor for Enrollment Management and Student Affairs	812-941-2115	<a href="mailto:agstone@ius.edu">agstone@ius.edu</a>
IUSB	Monica Porter, Vice Chancellor for Student Affairs and Diversity	574-520-4252	<a href="mailto:moport@iusb.edu">moport@iusb.edu</a>

Campus Academic Affairs

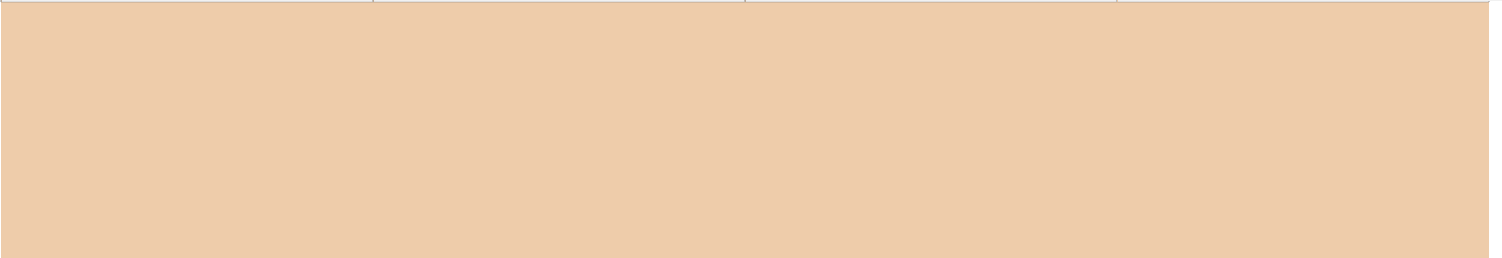
IUB	Eliza Pavalko, Vice Provost for Faculty and Academic Affairs	812-855-2809	<a href="mailto:vpfaa@indiana.edu">vpfaa@indiana.edu</a>
IUPUI	Kathy Johnson, Executive Vice Chancellor and Chief Academic Officer	317-274-4500	<a href="mailto:ofaa@iupui.edu">ofaa@iupui.edu</a>
IUE	Michelle Malott, Executive Vice Chancellor, Academic Affairs	765-973-8320	<a href="mailto:mimalott@iue.edu">mimalott@iue.edu</a>
IUK	Mark Canada, Executive Vice Chancellor for Academic Affairs	765-453-2227	<a href="mailto:marcanad@iuk.edu">marcanad@iuk.edu</a>
IUN	Vicki Román-Lagunas, Executive Vice Chancellor for Academic Affairs	219-980-6761	<a href="mailto:viroman@iun.edu">viroman@iun.edu</a>
IUS	Kelly Ryan, Executive Vice Chancellor for Academic Affairs	812-941-2208	<a href="mailto:ryanka@ius.edu">ryanka@ius.edu</a>
IUSB	Jill Pearson Executive Vice Chancellor for Academic Affairs	574-520-4183	<a href="mailto:jpearon@iusb.edu">jpearon@iusb.edu</a>

IUFW	Ann Obergfell Associate Vice Chancellor of Academic Affairs and Operations	260-481-0512	<a href="mailto:amobergf@iufw.edu">amobergf@iufw.edu</a>
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Campus Human Resources Offices



IUN	Lita Pener, Director of Institutional Equity and Title IX	219-980-6705	
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[Clery Act Compliance](#)  
[Code of Student Rights and Responsibilities](#)  
[Code of Academic Ethics](#)  
[Programs Involving Children](#)  
[Annual Security & Fire Safety Reports \(including Clery Crime Statistics\)](#)