

Faculty Organization Executive Committee Meeting
September 4, 2020
12:00-2:00pm
Online via Zoom
Minutes

In Attendance: Mark Baer (President), Bill Allegranza (Vice President), Harold Olivey (UFC Rep), Bill Dorin (COAS), Axel Schulze-Halberg (COAS), Surekha Rao (SOBE), Vesna Balac (CHHS), Marshelia Harris (CHHS), Alicia Wright (SOA), Scott Hudnall (Library), Susan Zinner (Past President), David Parnell (Secretary)

1. Called to order at 12:00pm.
2. Approval of minutes: August 21, 2020
 - a. Approved without amendment.
3. Old Business – Mark Baer, President
 - a. Elections Update: Thank you to those who nominated someone. An email was sent to all the nominated individuals for At-Large Reps and UFC Tenured Rep asking them to agree to run. There are 10 candidates for At-Large Reps and 4 candidates for UFC Rep. Is it okay that all individuals are asked to run? I did not want to curate the list of nominations. There was general support for not curating or limiting the list of nominees and for proceeding with an election.
 - b. COVID-19 Mitigation Testing: Mitigation testing has started on our campus this week. Everyone who was invited came and got tested. Less than 100 tests were done this week, but that number will start to ramp up. The site for mitigation testing is working well. The email goes out on Monday and testing runs Tuesday through Thursday. Faculty Question: We are not getting many details about tests or results. Will this change? Will the dashboard get updated? Mark: Any of the faculty members on the restart committee can answer questions about these details. The dashboard will be the preferred mode of communication in terms of numbers. Nobody is trying to hold back information that I have seen. There is no desire in the administration to contain any of this information. Faculty Question: Do you know the percentage that tested positive? Mark: No, but I don't think any of the administration knows the results either. The first tests were done Wednesday, and so the results were not available by Friday. Give us some time to have the system work.
 - c. Delays in AA Payroll: Across the campus there was a challenge with faculty that were newly hired in getting them paid on time for the August payroll. There were perhaps as many as 50 new hires campus-wide who were paid late. This was very alarming and Mark took the issue straight to Vicki. Payroll was processed for two different groups of people who were held up. The reason for the delay has to do with a financial process of approving every expenditure through the IUB CFO. Every single thing we do down to paying an adjunct to teach one class has to be

approved through several processes here on campus and then all the way down to Bloomington. The paperwork involved has been overwhelming to Academic Affairs. Vicki's office is designing ways to process the paperwork more quickly and working with both the deans here and Bloomington to ease the process. Faculty Question: Are you aware that it was not just new faculty? My summer pay was affected. Faculty Comment: None of our adjuncts got paid at all. Two adjuncts are still waiting for IU IDs. Will Vicki talk about this later? Mark: I think we have to ask her about this, yes. I did not understand the full extent of this problem. Faculty Comment: There are still adjuncts in our department as well that do not have IU IDs or access to Canvas and are only able to teach by going through a full-time employee to do so. Faculty Comment: I agree, that is the situation in our department as well and it is frustrating. Mark: We have Monica waiting to talk, so let's switch to her and pause this conversation until Vicki is with us.

4. UFC Report on Sexual Misconduct Policy – Monica Solinas-Saunders

- a. Thank you, Monica, for joining us.
- b. Monica: The revision of the Sexual Misconduct Policy (see Attachment #1) stretched over the summer over the course of many meetings. The version that we currently have is still somewhat a draft. There are motions that have been moved during the last UFC meeting that still need to be addressed, but we had to approve something like 70% of the policy to be in compliance with the White House. Mark: Can you go through the changes with us?
- c. Monica: We worked very quickly on these changes. The document is 66 pages and I would not expect anybody to read it all. We have to focus on what is important about the changes. During the Obama administration we had a process that was clearly in support of the protection of any complainant. The DeVos administration decided that the process has to be more transparent and therefore the person complaining has to be part of the hearing process. There will also be a cross-examination allowed. The DeVos administration is so focused on the due process standards that they decided to introduce clear and convincing evidence as a rule instead of preponderance of evidence. However, the committee decided to stick with preponderance of evidence, which is a lower standard. We felt this was fair for victims coming forward to complain. 12.7 of the policy describes the investigation process. One of the UFC representatives moved that the Faculty Board of Review does not hear complaints from administrators or students against faculty, but a faculty member can ask the FBR to review a decision by the administration against that faculty. The FBR cannot investigate new evidence or claims against a faculty member. Perhaps this will eliminate some of the frivolous complaints submitted to the Faculty President to focus on the real issues. Mark: Any questions for the committee? This was very helpful, Monica, in elucidating the important changes. Monica: Susan is a very important person to ask questions because she was present early in the process. Mark: Thank you for being here, Monica.

5. Ken Iwama, Chancellor

- a. This is a Friday before a long weekend, so I am not bringing any bad news today. I am here to share some positive news. First, a story about six degrees of separation. I was walking down the hallway and looking at the One Book, One Campus display. The author of one of your One Books was a colleague of mine at Staten Island and I thought that was an interesting coincidence.
- b. One of the first obligations that I made to everyone was that I wanted to do an engagement tour with faculty, staff and students. We cannot do strategic planning without a discussion with the constituents on campus. My thought process is not to try to change who we are, but that you all help me find out who we are and help me get to a realization of that on a higher level. I know how much time this is going to take, but it is time well spent. I want to get everyone's feedback on how to accomplish this. I like small groups, that could be 10-15 faculty members. It makes more sense to get a sense of schools and departments by grouping them together. I think the next stage for me and you all is to figure out how to break down schools into those numbers. In terms of content of these meetings, four questions came to mind to elicit discussion and engagement. I want to know from the faculty what are the disciplinary strengths as they see them, then I want to get some discussion of where the faculty see their future and growth in line with IUN, then I want to talk about obstacles that faculty see facing them in accomplishing these goals. Nothing can replace more intense dialogue. If we can group faculty into groups of 10-15, that would be about 8-10 meetings. I think after I talk to faculty I will extend this framework to students and staff too. Faculty Comment: I like this idea and I think the Executive Committee can help with this, since we have representatives from each college. We could divide up the list of faculty into reasonable sized groups for you. Faculty Comment: Each department has regular meetings, would it be better to attend each of those? Chancellor: I thought about that possibility as well and I defer to your expertise on that. Faculty Question: How long would each meeting be? Chancellor: I think minimally an hour, perhaps up to an hour and a half. Faculty Comment: I would bill it as 90 minutes because it would allow time for the conversation to grow. It would take a little planning. Faculty Question: Is it a goal before Christmas? Before Thanksgiving? Chancellor: I do not want to rush it, so first answer is as long as it takes to be effective, but if somehow I could accomplish this before December, that would be fantastic. That's partly my schedule and partly the departments' schedules. Faculty Comment: In our department we meet once a month. Faculty Comment: In our department we usually meet the whole assigned meeting time, so I think it would be helpful to have a separate scheduled time. Faculty Comment: We usually meet on Fridays. Faculty Comment: There are five Fridays in October. Chancellor: I hope these will be honest discussions and I would love to engage. Is there any feedback about the potential questions for these engagement meetings? I think every discussion will be unique and it is fine if it takes a negative turn, I have no problem with that. I am going to meet everyone where they are. Faculty Comment: I think those are challenging questions so as long as you introduce

them with what feedback you are looking for, I think they will work. Chancellor: Should I suggest groups for each meeting, or would you like to do that? Mark: The earlier comment was good, I think we can come up with some groups for you based on our knowledge of each college and school. Then we can suggest them to you and Candy can help close the loop. Chancellor: I appreciate that and I think we would have a lot of success with setting it up if it came from you. Thank you everyone for your feedback on this.

- c. Enrollment: The census closed August 31st. We had -2% overall enrollment in headcount, and -1.1% in credit hours vs. August 31st of last year. In light of everything that has happened, that is pretty good. This is a credit to everyone, not just enrollment management. In terms of regional campus comparison, only Kokomo had better enrollment numbers than us. I am already thinking more about enrollment moving forward, not just for spring but for fall 2021. It keeps me up at night because I know how important enrollment is for IU to allow us to do the things we want to do. In terms of finance as it relates to enrollment, the governor ordered all state agencies to cut spending by 15%, but it does not apply to IU because it is not a state agency. However, this gives IU pause because of what it might mean for us at the next budget. The bottom line for us with credit hours based on how IU gives credit is that we actually exceeded our credit hour prediction by a thousand credit hours. How does our trajectory intersect with the state? I would like to set our own destiny and I will be heavily involved in lobbying our state representatives to keep us whole as far as funding.
- d. I sent out an email to the Northwest Council and set a new agenda to discuss big picture items for the university rather than using the meeting as a report out. We want to survey students on their perception of their experience here and what they value here. I will start talking more about the Council here so everyone knows what is going on at those meetings.
- e. Facilities: If IUN is like other schools, there has always been a disconnect between Academic Affairs and facility priorities. I want to find out from Facilities what the list of priorities are and compare them with Academic priorities. That is something I want to make more transparent moving forward. Please start giving me feedback about facilities and things that have not happened that you may want to happen.
- f. Chief of Staff search: I spoke with the search committee chairs this morning and I hope to have a decision by the end of the day.
- g. Mark: With the Northwest Council, I was hoping to be able to readjust the faculty representation on that committee if this is something you are willing to consider. Chancellor: I am certainly willing to talk about it. Mark: The Council and Executive Committee have historically been very separated, and if the Council is going to take on more big picture stuff we may want to adjust the way faculty representation to the Council is selected. Chancellor: That being said, the Council will not replace faculty input.

6. Vicki Roman-Lagunas, EVCAA

- a. Hello! How is everybody doing?

- b. You all have done an extraordinary job and I am so grateful and even prouder when I share our success stories. People are watching us and you have done an extraordinary job. I have some data to share. Our first to second year retention rate this year is at almost 70%; nobody that I know remembers when that number was so great. What that tells me is that our first-year students from last year came back despite the COVID shutdown and going online and whatever. I will say that to anyone who asks and it is a tribute to you all. You did not scare away our students despite that transition. That is one of the most amazing pieces of data we can share. Kudos to you.
- c. The only people that get paid money to do CISTL online training are the adjuncts. But over the summer CISTL did almost 1,200 individual consultations, for 251 faculty members. This is just one-on-one. 161 faculty participated in either a 2, 4, or 10-week training on online teaching. This is amazing. Full-time faculty were not compensated, but they did it because they cared about student learning in the fall semester. CISTL also did a lot of workshops over the summer – 281 people engaged with these workshops. 20 faculty participated in Zoom open house meetings through CISTL. All the faculty and CISTL did an extraordinary job this summer.
- d. Faculty Question: Was the retention number higher among some schools than others? Vicki: I have not broken down these numbers because they are hot off the press, so I do not know yet. But no other IU campus has had the jump we had, which is between 7 and 9 percentage points for one year. The students also had a big jump, grades went up slightly in the spring compared to other semesters. This is all due to the hard work of the students and faculty.
- e. The faculty scholarship profile based on 2019 annual reports: 94 articles either published or accepted, 11 books that were published, 16 book chapters, 44 creative activities, and \$3.6 million in grants awarded. Kudos to you all for this work.
- f. Restart Committee: This committee was involved with all aspects of teaching and learning, and we have determined we need to meet some more. We are not stopping our work because we keep encountering new things to talk about. I am trying to get a common email address set up for faculty to contact us: restart2020@iun.edu This should be live next week and emails to that address will be received by Mark, Bill, Chris Young, Vicki, and Aaron Pigors.
- g. Faculty Question: When will COVID testing data be released? Vicki: The dashboard will be the place where testing data is released, on Friday afternoon or Monday morning. That data is what all IU people get, I do not get a separate report. In addition, we as faculty should not be communicating private medical data to anyone in our classrooms. The dashboard expresses total numbers, but names will not be released. Mitigation testing will take less than 72 hours. IU has contact tracing as well, there is a great system in place. The dashboard is in place but our results from Mitigation testing will not appear until Monday, because the dashboard updates again each Monday: <https://fall2020.iu.edu/dashboards/>. The mitigation testing group on our campus consists of Crystal Shannon, Linda Delunas, Beth Tyler, Vicki, and Gary Greiner. Nursing students are running the testing area and coordinating the efforts. There were hiccups the first day, but we

are good now and it is a really great system which the nursing students themselves had input on. We tested 95 folks this past week. The goal is to get to 300 per week.

- h. Payroll situation: IU expected that our budget would be in dire straits this academic year. They required us to cut 5% of our budget and identify another 5% that could be cut in an emergency, which turned out to not be necessary. But they also put in an exception request process, which would require multiple checks for new hires and expenses. This goes from departments to Vicki then through Michelle Dickerson then through the Chancellor then to a financial rep downstate, then to John Applegate if necessary, and this took a long time. All these requests would sit in inboxes for some time. We had to wait for this full approval process to be complete before any payroll could be done. This has been frustrating, but we are trying to streamline the process. We are still working on this. Most of the folks who are adjuncts have now been paid. I am open to suggestions. We are going to start asking for contracts to be written for adjuncts earlier so that we are not scrambling at the last minute. We will not assign adjuncts to potentially low enrolled classes to make sure they do not have to get a contract at the last minute. Mark: We hear that some adjuncts do not have access to Canvas. Is that related to the payroll issue? Vicki: I think this is all fixed now, but yes it is related. It is not possible for an employee to get an IU account or access to Canvas until they are listed in payroll. Faculty Question: Can you explain your plans for low enrolled classes? Vicki: I hate cancelling classes. It is disruptive. We look at whether the total dollars paid to an individual are lower than the total dollars coming into the university from enrollment in a class. However, we at the same time recommend classes not be scheduled the same way again. The schedule needs to be set so as to not get us to a point of having classes that are too low enrolled. Faculty Question: Is there any hope of setting it up so that we do not copy the class schedule from semester to semester? Vicki: That is an IU thing, not an IUN thing. I have a Pollyanna hope that this will get better as time goes on. Faculty Question: I am co-teaching with an adjunct and as of last night the adjunct still did not have IU access or had been paid. Vicki: I think the adjunct got paid today. We processed the last batch through this morning. Once they have been paid, everything else should happen. Faculty Question: Our department has an adjunct who has now been paid and has access to Canvas but the adjunct is not listed as the instructor of record in the class schedule yet. Do we have to request that change or will it happen automatically? Vicki: The process goes from payroll to the registrar and the class schedule should update soon.
- i. Restart Committee has determined that the Spring 2021 semester will start at the agreed-upon starting point that has been planned for years, but the first three weeks will be online, just as the last three weeks of fall semester are online. We are doing a 15-week semester. Further communication about this will come out publicly as the semester progresses. We believe students can maintain their learning practices better in a full semester.
- j. Faculty Question: Can we please get the schedule of classes on the IUN page updated? It defaults to summer and still has a message for summer. Vicki: That page may be controlled by the registrar and I will address this issue with him.

7. Old Business – Mark Baer, President (continued)

- a. Motion to extend the meeting by 15 minutes approved.
- b. Dean access to Canvas sites: There is discussion about whether the deans should be allowed blanket access to canvas sites for courses. This would be to check to see if a syllabus is published and other similar issues. Faculty Question: I just want to make sure this would not happen without faculty consent or at least notification. Mark: Yes, that is not the idea. Instead if there is a problem with a faculty member there is no need for the dean to request individual access, because they already have blanket access. Faculty Comment: My dean is wonderful and I have no problem with it, but other faculty may have apprehensions about it. Mark: One of my problems with the current state of affairs is that a student has to complain in order for someone to look into it. Faculty Comment: We have rules in place of what has to be set up. Mark: But how is that enforced? How do we hold ourselves accountable? Faculty Comment: Part of this is training and helping each other out. Faculty Comment: The dean should be aware of these issues and should be helping out. I have issues with faculty members who are sick and in the hospital and I have no access to get into Canvas to help out by posting something for the faculty member. That's a point where someone should have access. Faculty Comment: I have no problem with my dean looking at my course but perhaps a younger colleague might. Faculty Comment: The chair should be the intermediary instead of the dean. Faculty Comment: Yes, especially in COAS the chair comes next in the chain. Canvas has also had problems this semester and I do not want to get dissed about that. Mark: Would we feel more comfortable with CISTL doing this review? Faculty Comment: I think either the chair or CISTL would be more appropriate than the dean. Maybe CISTL could run a report of what courses are published. Mark: Thank you for your feedback so far, I will run it back and I don't expect anything to happen immediately with this.
- c. New Committee Structure: Super committees will have co-chairs, and they will need to communicate and report to Executive Committee. Perhaps each super committee will therefore need a secretary to keep organization clear. I had an idea that each super committee would have a representative on the Northwest Council. Each super committee would also contain the chairs of individual committees attached to the super committee. These would all be the officers of the super committee. The members of the super committee would then be available in a pool to be assigned for individual committees or specific projects. Faculty Comment: I did not know that you were envisioning officers for each super committee, but it makes sense. Mark: I wanted to create some kind of officer group that could meet and then engage the rest of the faculty in various projects. Student and Campus Affairs were shoved together from the beginning, but the more I looked at it the more it did not seem to work. So I have them separated at the moment and that gives four super committees. Faculty Comment: I don't know if we can go from three to four without some sort of Faculty Organization vote, since the vote was for three super committees. Faculty Question: So at the beginning of the year individual faculty would be told they belong to a super

committee but not to individual committees under it? Mark: Yes, so if this plan goes forward I would meet with the co-chairs of each super committee and help them build the agendas for their first meeting, and they would meet with their officers, who would assign individual members to a task or committee. Faculty Comment: I think this is a good change because this means we do not need to assign people to committees that will not do work that semester or year. Mark: I made sure each super committee had appropriate representation from each school. The current version is a draft and can get better. This will help us get balanced representation across all the groups. Faculty Question: How did you select chairs? Were they elected? Mark: No, traditionally the President and Vice President just assign faculty to committees. I will meet with Bill and David about this in the next week or so, but I did not want the setup to be a surprise to any of you.

8. New Business

- a. COVID-19 Impact of Research Expectations: This was raised by Susan two weeks ago. Another faculty brought up whether student evaluations from this semester should count. These are both faculty affairs issues and they are tabled until we can have a faculty affairs super committee put together. I encouraged the Vice Chancellor not to respond to questions about whether student evaluations this semester will count for tenure review, because tenure is a faculty issue and I do not want the administration setting expectations about that.

9. Faculty Organization Meeting Agenda

- a. New Business
- b. UFC Report from Monica
- c. Welcome from the Chancellor
- d. Executive Vice Chancellor
- e. New Faculty Introductions
- f. CURE: Ellen Szarleta presentation on anchor institution and faculty engagement. Faculty Comment: This should be pushed to October since the super committee structure discussion will take up a lot of time.
- g. Super Committee Structure

10. Adjourned at 2:21pm.

Attachment 1:
Revised Sexual Misconduct Policy
(See the following pages)

Discrimination, Harassment, and Sexual Misconduct

UA-03

About This Policy

Effective Dates: 03-01-2015

Last Updated: 07-01-2019

Responsible University Administrator:
President, Indiana University, University Faculty Council

Policy Contact:
Emily Springston
University Director of Institutional Equity & Title IX Coordinator
oie@iu.edu

Scope

1. This policy applies to all members of the Indiana University community, including:
 - all students
 - all academic appointees, staff and temporary (hourly) employees
 - 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.

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Policy Statement

I. OVERALL POLICY TENETS

1. 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.
2. This policy governs the university's response to all forms of discrimination and harassment, and sexual misconduct. (see Definitions below). Such behaviors are unacceptable under Indiana University policy. (See the Indiana University Non-Discrimination Policy.) The university does not tolerate conduct in violation of this policy

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and will take action to prevent and address such misconduct.

3. It is the policy of the university to comply with all applicable federal and state laws regarding unlawful discrimination and harassment against protected classes. Procedures for reporting incidents of discrimination, harassment and/or sexual misconduct, and investigating and adjudicating formal complaints, are part of this policy and are included below. These complaint resolution processes may vary depending on applicable law and policies relevant to the specific misconduct. In appropriate cases, and upon consultation with the Vice President and General Counsel, the university reserves the right to take prompt action in accordance with other university procedures. Questions about this policy, as well as the applicable complaint and complaint resolution processes, may be directed to appropriate contacts set forth in this policy. (See Additional Contacts below - [add link](#)).
4. Individuals who believe they have experienced discrimination, harassment and/or sexual misconduct in violation of this policy, and all members of the university community who may be aware of such incidents, are encouraged to promptly report incidents of discrimination, harassment, and/or sexual misconduct to the appropriate designated officials. (See Additional Contacts below - [add link](#)).
5. Some employees may have reporting obligations based on their role and responsibilities under this and other policies (See Employee Reporting Obligations - [add link](#)).
6. Retaliation against anyone who makes a report of discrimination, harassment and/or sexual misconduct, or participates in an investigation under any of the complaint resolution procedures set forth herein, is prohibited. (See Retaliation - [add link](#)).
7. For every report, the university will review the circumstances of the reported conduct to determine whether the university has jurisdiction over the parties involved, and to take steps within its control to eliminate, prevent, and address the reported conduct. The university will respond promptly to all reports and assess all information available; the potential Complainant(s) will be offered information regarding resources, supportive measures, as well as options regarding reporting and applicable complaint resolution procedures. Where a formal complaint is filed or initiated, the university will provide a fair and impartial investigation and resolution, provide supportive and interim measures, and, in the event a policy violation is found, impose appropriate sanctions and provide remedial measures. The appropriateness and severity of the sanctions imposed, up to and including termination or expulsion of the offender, will depend on the circumstances of the particular case. If the Respondent is not a member of the University community or is no longer affiliated with the university at the time of the report or at the time a formal complaint is initiated (including when the Respondent has graduated or left the university), the university typically is unable to take disciplinary action or conduct an investigation through the complaint resolution procedures herein.

II. JURISDICTION

1. This policy applies to any reported discrimination, harassment and/or sexual misconduct that is alleged to have occurred on campus, in the context of any university program or

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activity, or among current members of the university community off campus. This policy also applies to reported discrimination, harassment and/or sexual misconduct that has a continuing adverse effect or creates a hostile environment for one or more individuals.

2. The applicable complaint resolution process for addressing a formal complaint will depend on a number of factors including the type and nature of the alleged conduct, the role of the parties, where the alleged conduct occurred, and applicable law.
3. In situations not covered above, but where the reported discrimination, harassment and/or sexual misconduct undermines the security of the university community or the integrity of the educational process or poses a serious threat to self or others, other applicable university procedures for general misconduct may be applied.

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III. COVERED BEHAVIORS

This policy applies to the following behaviors and conduct. A formal complaint that a member of the university engaged in one or more of these covered behaviors will be handled pursuant to the applicable complaint resolution procedures.

1. **Discrimination:** Prohibited discrimination is treating someone differently because of above listed categories, or any other classification protected by law (referred to as "protected classes"), in matters of admissions, employment, education, or in the programs or activities of the university.

In determining whether discrimination occurred, the university considers whether there was an adverse impact on the individual's work or education environment and whether individuals outside of the protected class received more favorable treatment. If there was an adverse impact on the individual's work or education environment, the university considers whether there is a legitimate, non-discriminatory reason for the action.

Examples of discrimination can include refusing to hire or promote someone because of their membership in a protected class; denying someone a raise or employment benefit because of their 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.

2. **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.

A person'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 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.

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 persons involved, and apply the appropriate standard according to the applicable complaint resolution procedures.

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 (add links to sex/gender based harassment in definition).

3. **Sexual Misconduct:** All forms of Sexual Misconduct which are more fully defined within this policy: (add links)
 - a. Sexual Harassment
 - b. Sexual Assault
 - c. Sexual Exploitation
 - d. Dating Violence
 - e. Domestic Violence
 - f. Stalking

III. INTELLECTUAL INQUIRY AND DEBATE

1. In determining whether discrimination, harassment and/or sexual misconduct has occurred and what type of remedy, if any, might be appropriate in a given case, the university will also consider the fact that free intellectual inquiry, debate, and constructive dialogue are vital to the university's academic mission and must be protected even when the views expressed are unpopular or controversial. Accordingly, any form of speech or expressive conduct that is protected by state or federal law, including the First Amendment, is not subject to this policy.
2. This policy is meant neither to proscribe nor to inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters, including matters involving protected characteristics, when, in the judgment of a reasonable person, they arise for legitimate academic purposes. This includes intellectual inquiry, debate, and dialogue on related issues. The mere expression of views, words, symbols, or thoughts that some people find offensive does not by itself create a hostile environment.

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V. EDUCATION, PREVENTION, AND TRAINING

1. Every Indiana University campus shall publicize and provide ongoing educational programming for students, employees and other members of the university community to promote awareness of the problems caused by discrimination, harassment and sexual misconduct and to help prevent and attempt to reduce its occurrence. Educational programs and information will include campus-specific information on how and where to report, resources available, and safe and positive options for bystander intervention to address, intervene, and prevent such conduct. Efforts will be made to ensure that educational programs are culturally relevant and inclusive of the diverse communities and identities found at each campus.
2. Employee training shall be provided to those involved in reporting, receiving reports, investigating, adjudicating, reviewing, and otherwise responding to charges of discrimination, harassment and/or sexual misconduct at the university. Certain training may be mandated by applicable federal or state law. The appropriate training will be tailored to the audience and will include reporting and response obligations, available resources, and information about how to prevent and identify discrimination, harassment and/or sexual misconduct. Individuals specifically involved in implementing this policy and procedures will be trained regarding application of the policy and procedures, conducting the investigations, hearings and other decision-making processes, conflict of interest and unconscious bias, and other aspects related to this policy.

Reason For Policy

1. Indiana University is committed to the success, safety and well-being of all members of the university community including students, faculty and academic appointees, and staff. Indiana University recognizes that discrimination, harassment, and/or sexual misconduct may result in grave and often long-lasting effects on those involved and is committed to timely and fair investigation of allegations, and appropriate actions and consequences following investigations.
2. Indiana University is committed to compliance with state and federal laws regarding discrimination, harassment and/or sexual misconduct, to making required reporting to state and federal agencies; and to working with law enforcement officials and agencies where applicable. The university is also committed to using its resources in research and education to improve programs aimed at preventing and reducing discrimination, harassment and sexual misconduct in our community and ensuring safe, diverse, equitable, and inclusive communities.

Procedure

VII. OVERARCHING PROCEDURAL TENETS

1. **University Provided Information:**
 - a. The appropriate designated official will promptly contact, with an offer to meet and

provide written information, to anyone who reports to the university that they have experienced discrimination, harassment and/or sexual misconduct about:

- i. Potentially applicable university procedures, including to whom and how a formal complaint can be filed, as well as the individual's rights and options within the university proceedings;
- ii. If the conduct is of a potential criminal nature, options about the involvement of and reporting to law enforcement; and the importance of preserving evidence that may assist in proving the alleged criminal offense occurred, as well as how to preserve such evidence;
- iii. Rights and university responsibilities with respect to civil orders of protection issued by courts and how to obtain such orders; and
- iv. Available campus and community resources, including the availability of supportive measures.

2. Reporting an Incident:

- a. **In an emergency or where immediate help is needed, call 911.**
- b. Anyone wishing to report an incident of discrimination, harassment and/or sexual misconduct that may be of a criminal nature, can do so by contacting local law enforcement. If the incident did not occur on campus, IUPD can help direct the individual to the appropriate law enforcement agency.
- c. The university encourages anyone who has experienced discrimination, harassment and/or sexual misconduct to report what happened to the university, to ensure they are informed of the available supportive measures, on and off campus resources, options to make a formal complaint, and applicable complaint resolution processes, and to allow the university to respond appropriately. Anyone wishing to report can do so by contacting the designated official on their campus. (See Additional Contacts). [\(add link\)](#)
- d. 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.
- e. 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](#), [\(add link\)](#) 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.
- f. 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.

3. **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 the university's policy on [Programs Involving Children](#) (add link) for more information.

4. **Amnesty:**

- a. The university strongly encourages students to report instances of discrimination, harassment and/or sexual misconduct. Therefore, students who report an incident pursuant to this policy will not be disciplined by the university for violations of the Code of Student Rights, Responsibilities & Conduct related to their drug and/or alcohol consumption in connection with the reported incident.
- b. Students are also afforded immunity against certain charges for alcohol-related crimes under Indiana's Lifeline Law in connection with a report of a medical emergency, so long as they cooperate with law enforcement at the scene. (See IC 7.1-5-1-6.5)

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5. **Retaliation:**

Protections against retaliation are critical to reducing the prevalence of discrimination, harassment, and sexual misconduct within the university community. Retaliation against anyone who has reported an incident of discrimination, harassment and/or sexual misconduct, provided information, or participated in procedures or an investigation into a report of discrimination, harassment and/or sexual misconduct, is prohibited by the university and may be considered and addressed as a potential violation of this policy or other applicable university policies. Acts of retaliation include intimidation, threats, and/or harassment, whether physical or communicated verbally or via written communication (including the use of e-mail, texts, and social media), as well as adverse changes in work or academic environments, or other adverse actions or threats. The university will take steps to prevent retaliation and will impose sanctions on anyone or any group who is found to have engaged in retaliation in violation of this policy. Concerns about potential retaliation in connection with a report of sexual misconduct should be reported to the designated officials under this policy. (See Additional Contacts below). [add link](#)

6. **Roles, Duties and Obligations of Certain Employees:**

- a. Sexual Misconduct & Title IX Coordinators ("Coordinator(s)"):

- i. The University Sexual Misconduct & Title IX Coordinator (“University Coordinator”) will be promptly informed of all reports of sexual misconduct and will oversee the university’s review, investigation, and resolution of those reports to ensure the university’s compliance with applicable law and this policy.
 - ii. Deputy Sexual Misconduct & Title IX Coordinators (“Deputy Coordinators”) will be promptly informed of all reports of sexual misconduct for their campus and pursuant to their specific delegated role, and will assist the University Coordinator in ensuring that outreach, response, investigation and adjudication occurs in accordance with applicable law and this policy.
 - iii. 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.
- b. Equity Officials:
- i. The University Director of Institutional Equity will be promptly informed of all reports of discrimination and harassment, and will oversee the university’s review, investigation, and resolution of those reports to ensure the university’s compliance with applicable law and this policy.
 - ii. Campus Equity Officials will be promptly informed of all reports of discrimination and harassment for their campus, and will assist the University’s Director of Institutional Equity to ensure that outreach, response, investigation and adjudication occurs in accordance applicable law and this policy.
 - iii. Campus Equity Officials will work with the University’s Director of Institutional Equity and other officials within the university to ensure that adequate education, training, and appropriate resources are available and provided on their respective campus.

7. Employee Reporting Obligations:

Certain employees within the university, based on the nature of their role and the type of information known to them, may have a duty to report discrimination, harassment and/or sexual misconduct to the appropriate designated university officials to ensure the university can respond promptly. These obligations are set forth below:

- a. Discrimination & Harassment: University employees with teaching responsibility or supervisory authority within the university are obligated to promptly report incidents of discrimination or harassment , to the designated campus Equity Official. (See Additional Contacts below) [\(add link\)](#)
- b. Sexual Misconduct:

- i. Employees designated as “Responsible Employees” are obligated to promptly report incidents of sexual misconduct to the University Coordinator or their designated campus Deputy Coordinator. (See Additional Contacts below) [\(add link\)](#)
- ii. Responsible Employees include:
 - All employees with teaching responsibility, including academic appointees, student academic appointees, and any others who offer instruction (whether in-person or online) or office hours to students;
 - All advisors;
 - All coaches and other athletic staff who interact directly with students;
 - All student affairs administrators;
 - All residential hall staff;
 - All employees who work in offices that interface with students; and
 - All supervisors and university officials.

7. **Exempt Disclosures:**

- a. Employees who otherwise have reporting obligations under this policy are exempt from reporting disclosures of discrimination, harassment and/or sexual misconduct when made during limited situations, including:
 - i. Disclosures made as part of participation in research activities that have received human studies approval through the university’s Institutional Review Board (IRB);
 - ii. Disclosures made as part of an academic assignment;
 - iii. Disclosures made at public awareness events;
 - iv. Disclosures made during the course of communications protected as privileged communications under applicable law, including attorney-client privilege and medical professional privilege.
- b. Following such disclosures, and when appropriate given the circumstances, the Responsible Employee should offer resources and reporting information and options.
- c. 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 section) [add link](#).
- d. 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). [add link](#)

8. Confidential Employees

- a. 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.
- b. Information on the university's Confidential Employees are included in the Additional Contact Section below, and include, but are not limited to:
 - Licensed, professional mental health counselors working in that capacity for the campus, and those they supervise;
 - Health care professionals and staff located in on-campus health care centers; and
 - Any staff or specialists on a campus specifically designated as non-professional sexual assault advocates.
- c. Faculty, staff, and other employees who are licensed mental health workers or are licensed medical workers, but who are not working in that capacity, such as faculty members in psychology, social work, nursing, etc., are not Confidential Employees under this policy.
- d. Any Confidential Employee who is not a licensed mental health counselor or pastoral counselor serving in those roles must provide non-identifying aggregate information regarding any Clery crime known to them directly to IUPD.
- e. Employees who are uncertain whether they have a reporting obligation under this section, are encouraged to contact the designated officials for their campus to seek guidance.

9. Role of Law Enforcement

- a. Any individual who has experienced discrimination, harassment and/or sexual misconduct that may be of a criminal nature, is encouraged to contact IUPD or local law enforcement.
- b. IUPD responds to emergency situations on Indiana University campuses and typically communicates and works with the appropriate designated officials to assist in investigations and incident response, as well as to track statistics for Clery Act reporting.

- c. Individuals with a possible criminal case who have not made their initial complaint via the police will be provided with information about how to file a complaint with law enforcement. Individuals may also request assistance from campus authorities in notifying law enforcement. Individuals may decide not to notify law enforcement authorities and proceed only with a university investigation.
- d. A university investigation under the complaint resolution procedures identified in this policy may be initiated and/or proceed simultaneously with a criminal case. The university will cooperate with law enforcement and, if requested by law enforcement, defer its fact gathering for a brief period during the evidence gathering stage of a criminal investigation. However, the university will not consider its investigation on hold pending a criminal prosecution or investigation, and will continue to communicate with individuals, address the need for any supportive measures regarding safety and well-being and resume its own fact gathering as soon as permitted.
- e. The determination by law enforcement whether or not to prosecute a Respondent or the outcome of a criminal proceeding does not determine whether a violation of university policy has occurred. Records of university proceedings may be subpoenaed for a criminal prosecution.

10. **Privacy**

- a. The university is committed to safeguarding the privacy of the parties in a manner consistent with the objective to effectively investigate and prevent incidents of discrimination, harassment and/or sexual misconduct. In all cases, the university will share the parties' information and details of the allegation only with university officials, law enforcement personnel, and other individuals who have a legitimate administrative or legal reason to be so informed. Records will not be disclosed outside the university unless required by law or subpoena.
- b. All individuals with knowledge of a reported incident of discrimination, harassment and/or sexual misconduct are expected to safeguard the privacy of those involved and are encouraged to report such knowledge to the appropriate officials.

11. **Requests for No-University Action**

- a. If an individual discloses that they have experienced an incident of discrimination, harassment and/or sexual misconduct to the university, but indicates or requests that the university not investigate the particular incident, requests that no disciplinary action be taken, requests that the alleged perpetrator not be notified, or makes any similar request, the university will always consider such request(s), and will, in general, work to honor the request(s). Absent a formal complaint, the university will weigh such request(s) against its obligation to provide a safe, non-discriminatory environment for all, including the individual who experienced the

discrimination, harassment, or sexual misconduct. If the university determines that it is able to honor the individual's request(s), the individual should understand that the university's ability to meaningfully investigate the incident and/or respond appropriately may be limited. If, however, the university determines it must proceed under the circumstances, it will work to notify the individual in advance.

- b. The university has designated the following individual(s) to evaluate an individual's request for no or limited action by the university in connection with a report of discrimination, harassment and/or sexual misconduct: i) the University Director of Institutional Equity and campus Equity Officials for reports of harassment or discrimination; and ii) the University Coordinator or the Deputy Coordinator for their campus for reports of sexual misconduct. These officials will consult with relevant administrators on each campus and university legal counsel, where appropriate, in making these determinations.

12. Determination of Procedures in Response to Reports of Discrimination, Harassment or Sexual Misconduct

- a. Determination by the university of applicable complaint resolution procedures upon receipt of a formal complaint after a report of discrimination, harassment and/or sexual misconduct will follow the steps identified below, depending on whether the Respondent is a student or employee, and whether the matter falls within the scope of Title IX or the other provisions of this policy. Employees who are also students may be subject to procedures for students or employees, or both..
- b. If the individual reported as having been engaged in discrimination, harassment and/or sexual misconduct is not a student or employee of the university, the university shall take all appropriate measures to determine information regarding the individual, what occurred, whether another entity needs to be contacted to join in or assume an investigation (e.g., another institution of higher education), and to provide assistance in notifying the proper law enforcement authorities, if applicable. The university will also provide supportive and remedial measures, to the extent possible, to protect the reporting individual and eliminate any hostile environment.
- c. The university reserves the right to investigate circumstances that may involve discrimination, harassment and/or sexual misconduct in situations where no complaint, formal or informal, has been filed. In limited circumstances, the university reserves the right to reopen a case previously considered closed in the event of new information or other appropriate circumstances.

14. Supportive and Interim Measures

- a. Upon receiving a report of discrimination, harassment, or sexual misconduct, the university will offer and provide appropriate and necessary supportive measures, regardless of whether a formal complaint is filed, depending on 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.

- b. 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, campus interim suspension procedures will be followed. [add link to Student Code re interim suspension]
- c. 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.

15. **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. To be informed by the university of options to notify proper law enforcement authorities including on campus and local police, and the option to be assisted by campus authorities in notifying proper law enforcement, if the individual chooses.
- f. To be notified of available resources including counseling, mental health, academic, legal and other support services, both at the university and in the community.
- g. To have allegations investigated and adjudicated by individuals who are properly trained to investigate and resolve allegations of discrimination, harassment and/or sexual misconduct.

- h. To participate in the investigation and disciplinary process, including the opportunity to identify witnesses and other appropriate evidence, and to be informed of adverse evidence and have the opportunity to respond to it.
- i. To have allegations investigated and adjudicated in a reasonable timeframe given the circumstances of the specific case.
- j. To have the preponderance of the evidence standard (more likely than not) applied in determining responsibility.
- k. To have the right to appeal under applicable complaint resolution procedures.

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+STUDENT DISCRIMINATION & HARASSMENT COMPLAINT RESOLUTION PROCEDURES

Complaints of discrimination and harassment alleged against a university student will be handled according to the [Code of Student Rights, Responsibilities & Conduct](#) and the campus specific conduct procedures. [\[add link to Code\]](#)

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+ ACADEMIC APPOINTEE & STAFF DISCRIMINATION & HARASSMENT COMPLAINT RESOLUTION PROCEDURES

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1. Covered Behaviors:

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:

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 concern through other appropriate avenues. If a report or complaint raises allegations that are outside the scope of this policy, but may violate other university policy(ies), the matter will be referred to the appropriate university office.

Where it is determined that the allegations fall under this part of the policy, the following complaint resolution procedures apply, except that allegations of sexual harassment may be addressed by the appropriate sexual misconduct complaint resolution procedures in this policy.

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When the initial assessment results in a decision not to proceed with the complaint under any university procedures, once notice is given to the parties, either party may appeal that decision to the DO.

3. Discrimination Complaints Against a Unit or Department:

a. In response to a complaint of Discrimination [add link], the Investigator shall gather relevant information from the Complainant, the respective unit/department at issue, other university offices, and potential witnesses. After gathering all relevant information, the Investigator shall make a determination whether discrimination occurred. The Investigator will issue a letter setting forth the relevant findings, and if applicable, any necessary remedial actions or other recommendations, to the Complainant and the unit/department. In the event the findings include evidence of discrimination, the Investigator shall advise the unit/program in taking any necessary and appropriate remedial action.

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4. Discrimination or Harassment Complaints Against Academic Appointees or Staff:

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

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- **Investigator** – The Equity Official for the respective campus, or an appropriate designee, will conduct fact-finding as the Investigator and may coordinate the investigation with other offices such as human resources, academic affairs, and student affairs.

- **Decisional Official (DO)** – The DO will issue the decision determining responsibility and assigning appropriate sanctions, if applicable. The DO will be as follows:
 - i. For complaints against staff employees, including temporary (hourly), the DO will be the university employee relations director or designee.
 - ii. For complaints against faculty and academic appointees, the DO will be the Vice Provost/Vice Chancellor for Academic Affairs of the respective campus.
 - iii. For complaints against a Dean, a Vice Provost, or a Vice Chancellor, the DO will be the Provost/ Chancellor of the respective campus.
 - iv. For complaints against a University Vice President, a Provost, a Chancellor, or equivalent, the DO will be the President.
 - v. For complaints against the President, the DO will be the Board of Trustees.
- **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:
 - i. For an appeal in a complaint against staff employees, including temporary (hourly), the Vice President of University Human Resources.
 - ii. For an appeal in a complaint against faculty or academic appointees, the Provost/Chancellor of the respective campus.
 - iii. For an appeal in a complaint against a Dean, a Vice Provost, or a Vice Chancellor, the President.
 - iv. For an appeal in a complaint against a Vice President, a Provost, a Chancellor, or equivalent, the Board of Trustees.
- **Faculty Board of Review (FBR)** - In academic appointee cases, following the determination of the AO, the appointee may request a review by the campus FBR, which may review and issue a recommendation to the AO.

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5. 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 appropriate university officials, which may include the DO. The DO may administer such interim action at any point in this process pending final outcome.

6. Informal & Alternative Resolutions

a. Informal Action:

In appropriate cases, the university may pursue informal actions in connection with reported discrimination or harassment, including when the person 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.

b. 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 it with the Equity Official and the DO.

c. 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.

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7. 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 employee and 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 indicated a pattern of similar prohibited conduct.
- e. 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.

8. Report of Investigation

- a. Following the investigation, the Investigator will provide a Preliminary Investigation Report to the parties. At that time, the parties will be provided access to the Investigation File. The parties will be provided 10 calendar days to review the Preliminary Investigation Report and provide any clarifying information to the Investigator. This period of 10 days will be the final opportunity for parties to submit any additional information to the Investigator.
- b. The Preliminary Investigation Report will include:
 - the specific allegation(s);
 - the Respondent's response to the allegation(s);
 - a summary of the relevant information gathered from the parties, witnesses and other sources; as well as explanation for any information submitted or received that was determined not relevant for inclusion;

- an analysis of the information.
- c. At the conclusion of the 10-day period, the Investigator will review the information submitted by either party and determine whether and to what extent to incorporate such information into a Final Investigation Report. The Investigator will then finalize the Final Investigation Report and include a recommendation as to whether the Respondent is responsible or not responsible for the alleged violation(s) of this policy, using a preponderance of the evidence standard (more likely than not); and a recommendation as to appropriate sanctions, if any, as set forth below.
- d. The Investigator will provide the Final Investigation Report to the DO, as well as to each party.

ii. Finding and Decision

- a. Upon receiving the Final Investigation Report, the DO shall issue a finding. The DO may consult with the Investigator concerning the investigation and recommendations. The DO will provide each party the opportunity to meet with them and provide comment and make a statement. If the DO wishes further consultation with the parties, the Investigator will facilitate consultations to ensure equal opportunities is provided for the parties.
- b. The DO will issue one of the following findings, using a preponderance of the evidence standard:
 - i. Finding of “No Violation”:
If there is a determination that the behavior alleged and investigated did not violate the discrimination and harassment policy, the DO shall provide the parties written notice of the finding. In the event the investigation reveals that the employee may have violated a different university 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 respective Deputy Title IX Coordinator’s office, and not in the employee’s personnel file.
 - ii. Finding of a “Violation”:
If there is a determination that the behavior alleged and investigated was in violation of the discrimination and harassment policy, the DO shall issue the finding and sanction(s) (based on the level of sanctions set forth below).
- c. The DO shall provide the parties written notice of the finding and any sanctions, if applicable.

iii. Sanctions

- a. Sanctions for a violation of the university’s discrimination and harassment policy include the following:

- i. 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 or other similar corrective action (other than to promotion and tenure dossier which is included in Level Two Sanctions below). Level One sanctions are not appropriate if Respondent was found responsible for a physical act of violence.
- ii. 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 appeal to the Appellate Officer (AO) on the basis of:
 - i. Significant procedural error that reasonably would have affected the outcome.
 - ii. Newly discovered evidence that could affect the outcome.
 - iii. Significant bias in the process.
 - iv. The finding of responsibility is not supported by the evidence in the Report of Investigation.
 - v. The appropriateness of the sanctions.
- b. A request for appeal must be submitted in writing to the AO within 10 calendar days of receiving the DO's decision. The request must set forth the basis(es) for seeking an appeal and must include information to support such basis(es). If an appeal is submitted, all parties will be notified.
- c. Upon receipt of appeal, the AO shall notify the other party in writing when an appeal is filed, the bases of the appeal, and allow the opportunity for other party to submit written statement in support or challenging the outcome to the AO within 5 calendar days.
- d. The AO shall first determine whether the basis of appeal has been met, and if so, shall review the findings and any applicable sanctions, in making a determination.
- e. The AO shall make a final determination within 15 calendar days of the receipt of any appeal, indicating one of the following:
 - i. Affirming the DO's original finding(s).
 - ii. Setting aside the DO's original finding(s) and imposing a new finding and/or sanctions.

- iii Setting aside the DO's original finding(s) 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).
- f. To the extent possible, the parties will be notified simultaneously in writing of the final determination following an appeal.

12. Request for Faculty Board of Review

- a. In cases involving an academic appointee as a party, the appointee sanctioned under this policy may submit a request for review by the Faculty Board of Review (FBR) following the determination of the AO. The request for review should be made according to the specific campus FBR policy, and campus FBR procedures will apply except as modified by the provisions below.
- b. The bases for appeal are the same as those for appeal to the AO. The request for a FBR must set forth the basis(es) for seeking review and be submitted in writing within 15 calendar days of receiving the AO's determination. For good cause shown, and bearing in mind the need for timely resolution, the timeframes set forth within these procedures may be extended. If a request for a FBR is submitted, the FBR shall notify the other party(ies), as well as the DO and the AO.
- c. The FBR will only receive the Final Investigation Report; the Investigation File; the written findings of the DO, along with comments submitted by any party to the DO; the written findings of the AO; and any sanctions. The FBR may not conduct new fact-finding. The FBR may seek training and additional information from the University Director of Institutional Equity.
- d. Throughout the FBR process, hearing members and participants shall ensure that the privacy of the matter and the parties is upheld. If a hearing is held, it shall be closed to the public to protect the privacy of all parties. In addition to faculty members serving on the FBR hearing panel, others present during a hearing may include the party requesting review and that individual's advisor, the other party(ies) named in the report and their advisor(s), the DO, the University Director of Institutional Equity, the Equity Official, and/or and other university officials necessary to the proceedings. No witnesses will be allowed in the FBR. The grievant, the Complainant, 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:
 - i. Affirm the AO's determination.
 - ii. Recommend an alternative finding and/or sanction.

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- iii. 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 make a final determination within 10 calendar days, indicating one of the following:
 - i. Affirming the prior determination on appeal.
 - ii. Setting aside the prior determination on appeal and imposing a new finding and/or sanctions.
 - iii. 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 final decision. This concludes the appeal process.

5. **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.

+OVERARCHING PROCEDURES FOR RESPONDING TO REPORTS OF SEXUAL MISCONDUCT

i. 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. (See Definitions below). [add link](#)

ii. Complaint

- a. When the campus based 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 their 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 above – link to 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:
 - i. 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;
 - ii. The behavior alleged occurred as part of an IU program or activity; and
 - iii. The behavior alleged occurred against a person in the United States.

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, but the allegations may be assessed under the University Complaint Resolution Procedures or other procedures.

- d. 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:

- i. The allegations include sexual assault, and/or dating violence, and/or domestic violence, and/or stalking (see Definitions [-add link](#));
- ii. The allegations include quid pro quo sexual harassment;
- iii. The allegations include sexual harassment, that if true, would be pervasive and severe and objectively offensive.

If the allegations do not fall into any of the above categories, the complaint may be dismissed under the Title IX Complaint Resolution Procedures. In that event, the complaint may be investigated under University Complaint Resolution Procedures [\(add link\)](#) 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.

- e. In the event the Coordinator dismisses the complaint under Title IX Complaint Resolution Procedures at any point, once notice of Title IX dismissal is given to the parties, either party may appeal that decision to the Coordinator. If the Coordinator chooses not to proceed with the complaint under any university procedures, once notice is given to the parties, either party may appeal that decision to the DO.
 - f. 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.
-

+STUDENT SEXUAL MISCONDUCT – TITLE IX COMPLAINT RESOLUTION PROCEDURES

1. Covered Behaviors

The following behaviors, as defined below, are covered under these procedures: [add links](#)

- Sexual Harassment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

2. Officials

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

- a. **Investigator** – An Investigator for the student affairs office of the respective campus, or an appropriate designee, will conduct fact-finding as the Investigator and will issue the Preliminary and Final Investigation Report.
- b. **Hearing Panel** – The hearing panel will review the case at the hearing and make a decision regarding whether or not the Respondent is found responsible and propose sanctions if applicable. The Hearing Panel Chair will coordinate the process and make any determinations of relevance regarding questions asked by advisors.
- 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 their designee, may review the decision and sanction following an appeal by either party, and make a subsequent determination.

3. Investigation

- a. Upon receipt of a formal complaint of an allegation of Title IX sexual misconduct, the Investigator(s) will notify the Complainant and the Respondent. The Respondent will be provided a date by which an appointment must be made to discuss the matter. The Respondent shall be informed of the allegations made against them and shall be provided the opportunity to respond.
- b. 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 Complainants, Respondents, witnesses identified by any party, or the university. Any individual believed to have information relevant to an investigation may be contacted and requested to make an appointment to discuss the matter. The university shall determine what information and evidence will be included in the Investigation Report, and all information submitted will be included in the Investigation File.

- c. 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 indicated a pattern of similar prohibited conduct.
- d. All members of the university community, including the parties and witnesses, are expected to cooperate with the investigative and hearing process. Failure to comply with a request to make and/or keep an appointment related to an investigation may result in a disciplinary hold being placed on a student's account and/or the initiation of student conduct charges for failure to comply.
- e. Following the investigation, the Investigator will provide a Preliminary Investigation Report and Investigation File to each party and their advisor. The parties will be provided 10 calendar days to review the Preliminary Investigation Report and the Investigation File and provide any additional and/or clarifying information to the Investigator. This period of 10 days will be the final opportunity for parties to submit any additional information to the Investigator.
- f. At the conclusion of the 10-day period, the Investigator will review the information submitted by either party and determine whether and to what extent to incorporate such information into a Final Investigation Report. The Investigator will provide the Final Investigation Report and Investigation File to each party and their advisor at least 10 days prior to the scheduled hearing.
- g. When preparing the Final Investigation Report, the Investigator will determine the appropriate charge(s), if any, under this policy, to be placed on Respondent, and include the charge(s) in the Final Investigation Report. If the Investigator places a charge(s), the Final Investigation Report will be submitted to a hearing panel for the determination of responsibility, and the parties will be provided the Final Investigation Report and notified of next steps. If the Investigator determines that there is insufficient evidence to support placing a charge under the Title IX Complaint Resolution Procedures, the parties will be provided the Final Investigation Report and notified that no charges will be placed under Title IX sexual misconduct. If there are remaining charges under this policy or the Student Code those may proceed according to the applicable procedures.
- h. If it is determined at any time during this process, that the allegations do not fit within Title IX sexual misconduct, the complaint will be dismissed under these

procedures. The complaint may then be referred to other procedures within this policy or Student Code, if appropriate. The Complainant and Respondent will be notified of this dismissal and referral to other procedures (if applicable) in writing. The Complainant and Respondent will have the opportunity to appeal the dismissal to the appropriate Student Affairs official.

- i. The Complainant may request to withdraw the complaint prior to the conclusion of the investigation by contacting the Investigator or appropriate Deputy Title IX Coordinator in writing. The Investigator or Deputy Title IX Coordinator will then determine whether to close the case or refer the complaint to other procedures within this policy or Student Code.
- j. The investigation and determination of responsibility will be conducted in a reasonable timeframe given the circumstances of the specific case.

4. Selection of Advisors

- a. The Complainant and Respondent must have a Hearing Advisor that will be present during the hearing to conduct questioning of other parties. If the party does not identify in advance an advisor for this purpose, one will be appointed by the university. 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 may not participate or speak for the parties except during the relevant questioning of other parties or witnesses. The Hearing Advisor is permitted to review the Investigation File.
- b. The Complainant and Respondent may have another advisor throughout the complaint resolution process that may accompany them during proceedings. The non-hearing advisor is not permitted to conduct any questioning at the hearing. Any advisor engaged that is external to the university are at the expense of the parties.

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 (c) 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 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 or resume the complaint resolution process. Face-to-face mediation may not be used in cases involving sexual violence. The Investigator shall document the outcome of any alternative resolution and share with the parties.

- c. In cases where the Respondent expresses a willingness to accept responsibility for any or all charges in a case, the Respondent may be offered the opportunity to waive the right to a formal hearing as to the specific charge(s) and all related procedural guarantees, and agree to receive a sanction from the designated student affairs conduct officer. In such situations, the parties will each be provided the opportunity to submit a written statement to the conduct officer for consideration in determining appropriate sanctions. The conduct officer shall consider only the parties' written statements regarding sanctions, the relevant facts from the investigation, and past conduct history of the Respondent (if applicable). In such cases, the right to appeal will be limited to an appeal on the grounds that the sanction is grossly disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.

6. Sexual Misconduct Hearing

- a. A three-person hearing panel will be assembled to make a determination of Respondent's responsibility as to the specific charge(s) set forth in the Final Investigation Report.
- b. Hearing panel members will be drawn from the pool of faculty, staff, graduate students, and/or hearing officers retained by the university for purposes of adjudicating these hearings. At a minimum, at least one panel member shall be a student affairs administrator.
- c. Upon review of the Final Investigation Report, all witnesses deemed relevant to the specific allegations will be called to the hearing.
- d. The hearing is closed except for the parties, their advisor(s) (see section 4 above), the hearing panelists and other university officials necessary to facilitate the proceedings.
- e. The hearing will take place in-person or will be conducted remotely via secure university software. Complainant and Respondent are expected to be available in-person or via video and audio for the duration of the hearing. Witnesses are expected to be available in-person or via video and audio for the portion of the hearing relevant to their statement.
- f. The Chair of the hearing panel shall review the charge(s) placed against the Respondent and the specific facts alleged.
- g. Both the Complainant and the Respondent will have equal opportunity to provide a statement to the hearing panel.
- h. No one other than the hearing panel members and the hearing advisor(s) may pose questions during the hearing. The Complainant and Respondent may not directly question each other, but may provide questions to their Hearing Advisor to be asked of the other party on their behalf. The Chair in consultation with hearing panelists and appropriate university officials, will determine if questions

are relevant to the case.

- i. The sexual misconduct hearing is recorded. Deliberations by the panel, following the hearing, are not recorded.
- k. If any party or witnesses does not participate in the sexual misconduct hearing, the hearing may proceed but when deliberating, the panel may not be able to consider the non-participating individual's statements during the investigation in the determination. Evidence provided that is something other than a statement by the party or witness may be considered. The panel may consult with legal counsel to determine questions of admissibility. If Complainant or Respondent do not appear at the hearing, their Hearing Advisor may still ask questions of other parties on their behalf.

7. Decision & Sanctions

- a. At the conclusion of a hearing, the panel shall deliberate without the parties present to determine responsibility for the specific charge(s) based on the evidence.
- b. If, after deliberations, the hearing panel 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 this policy and the Student Code, the hearing panel will notify both the Respondent and the Complainant by means of a written notice. The Complainant and/or Respondent may request an appeal (see Section 6).
- 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 Section 8).
- d. Possible sanctions for cases in which students are 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 sexual misconduct hearing panel to the Student Affairs official on the respective campus (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). If an appeal is filed, all parties will be notified and have the opportunity to submit a written statement.

Commented [AT11]: Do we need this so both parties are treated the same?

b. Timing:

The notice of appeal must be filed no later than ten calendar days after the date the written decision of the sexual misconduct hearing and Title IX panel is sent. If an appeal is submitted by either party, 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 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 of the following criteria:

- i. Procedural irregularity that affected the outcome;
- ii. New evidence that was not reasonably available at time determination or dismissal made, that reasonably could have affected the outcome;
- iii. 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
- iv. The sanction imposed is grossly 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

- i. 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.
- ii. 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.
 - iii. 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

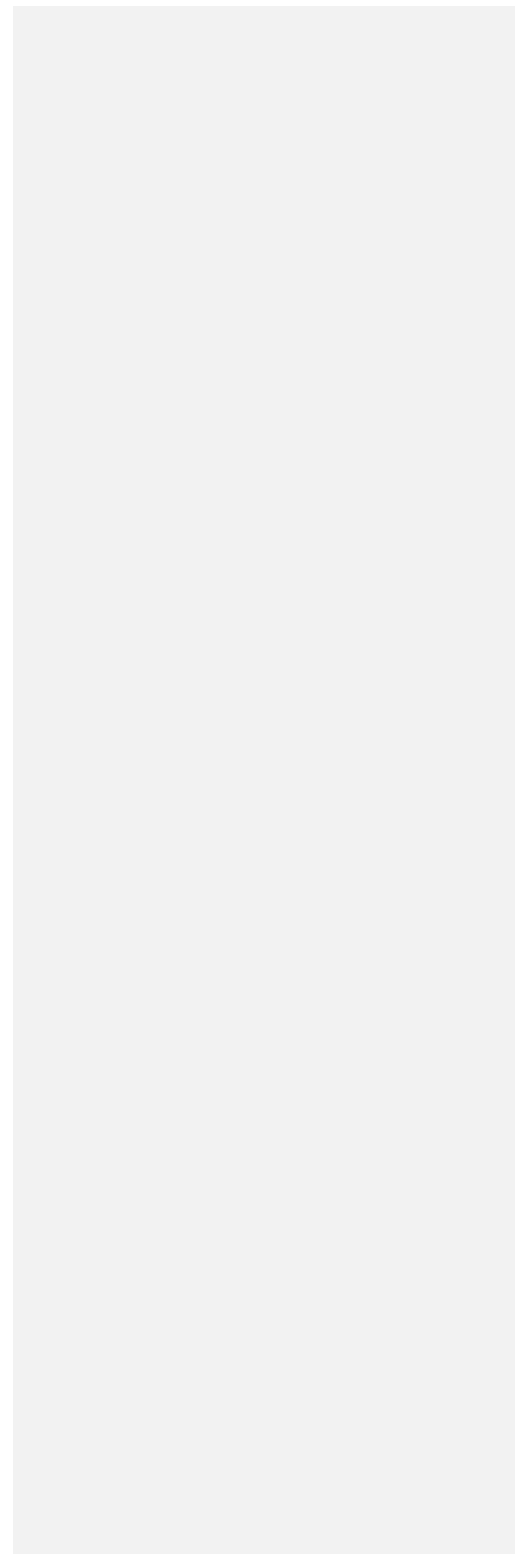
- a. Just as students with disabilities may be eligible for accommodations in their classes, accommodations may be available for these procedures as well. Students with disabilities requesting accommodations and services under these procedures will need to present a current accommodation verification 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.

9. 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.

For Internal Deliberation Only

Confidential Draft as of 7/31



+ **ACADEMIC APPOINTEE AND STAFF SEXUAL MISCONDUCT – TITLE IX COMPLAINT RESOLUTION PROCEDURES**

Deleted: FACULTY

1. **Covered Behaviors**

The following behaviors, as defined below, are covered under these procedures: [add links](#)

- Sexual Harassment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

2. **Officials**

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

- a. **Investigator** – The Deputy Coordinator(s) 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. **Hearing Official** - A hearing official will be responsible for assisting the DO during the hearing process including reviewing the Investigation File; assisting with determinations of relevancy during questioning; and coordinating a fair and respectful hearing.
- c. **Decisional Official (DO)** – The DO will be present at the sexual misconduct hearing and will issue the decision determining responsibility and assign appropriate sanctions, if applicable. The DO will be as follows:
 - i. For complaints against staff employees, including temporary (hourly), the DO will be the university employee relations director or designee.
 - ii. For complaints against faculty and academic [appointees](#), the DO will be the Vice Provost/Vice Chancellor for Academic Affairs of the respective campus.
 - iii. For complaints against a Dean, a Vice Provost, or a Vice Chancellor, the DO will be the Provost/ Chancellor of the respective campus.
 - iv. For complaints against a University Vice President, a Provost, a Chancellor, or equivalent, the DO will be the President.
 - v. For complaints against the President, the DO will be the Board of Trustees.
- d. **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

Deleted: employees

will be as follows:

- v. For an appeal in a complaint against staff employees, including temporary (hourly), the Associate Vice President of University Human Resources.
 - vi. For an appeal in a complaint against faculty or academic ~~appointees~~, the Provost/Chancellor of the respective campus.
 - vii. For an appeal in a complaint against a Dean, a Vice Provost, or a Vice Chancellor, the President.
 - viii. For an appeal in a complaint against a Vice President, a Provost, a Chancellor, or equivalent, the Board of Trustees.
- e. **Faculty Board of Review (FBR)** –In ~~academic appointee~~ cases, following the determination of the AO, the ~~appointee~~ may request a review by the campus FBR, which may review and issue a recommendation to the AO.

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3. Interim Action

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

4. Informal & Alternative Resolutions

a. Informal Action:

In appropriate cases, the university may pursue informal actions in connection with reported discrimination or harassment, including when the person 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.

b. 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. 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 Coordinator and the DO.

- c. **Acceptance of Responsibility:**
In cases where the Respondent expresses a willingness to accept responsibility for any or all allegations in a case 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 grossly 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. The Investigator(s) will notify the Complainant and the Respondent.
- c. 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.
- d. The Investigator will conduct fact-finding as to the allegations made against the Respondent employee and preserve all evidence collected.
- e. 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.
- f. 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 indicated a pattern of similar prohibited conduct.

- g. 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.

6. Report of Investigation

- a. Following the investigation, the Investigator will provide a Preliminary Investigation Report to the parties. At that time, the parties will be provided access to the Investigation File. The parties will be provided 10 calendar days to review the Preliminary Investigation Report and provide any clarifying information to the Investigator. This period of 10 days will be the final opportunity for parties to submit any additional information to the Investigator.
- b. The Preliminary Investigation Report will include:
 - the specific allegation(s);
 - the Respondent's response to the allegation(s);
a summary of the relevant information gathered from the parties, witnesses and other sources; as well as explanation for any information submitted or received that was determined not relevant for inclusion;
 - an analysis of the information.
- c. At the conclusion of the 10-day period, the Investigator will review any additional information submitted that is directly related and make it available to both parties. The Investigator may incorporate such information into a Final Investigation Report.
- d. The Final Investigation Report will be submitted to a hearing panel for the determination of responsibility, and the parties will be provided the Final Investigation Report and notified of next steps of the sexual misconduct process.
- e. The Investigation will be conducted in a reasonable timeframe given the circumstances of the specific case.

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 advisor will have the opportunity to review all evidence collected in the Investigation.

8. Hearing

- a. The complaint resolution process must include a live hearing. The hearing is recorded. Deliberations by the panel, 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 may make determinations as to the relevance of questions and may exclude a question as not relevant.
- d. If a party or witness does not submit to cross-examination at the live hearing, the DO must not rely on any statement of that party or witness in making a determination of responsibility and may not draw any inference based solely on the non-participation of any party or witness.

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 Section 7).
- 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 Section 7).

- d. The DO will issue one of the following findings, using a preponderance of the evidence standard:
 - i. 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 respective Deputy Title IX Coordinator’s office, and not in the employee’s personnel file.
 - ii. 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:
 - i. 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.
 - ii. 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:
 - i. Procedural irregularity that affected the outcome;
 - ii. New evidence that was not reasonably available at time determination or dismissal made, that reasonably could have affected the outcome;
 - iii. The Title IX Coordinator(s), investigator(s), DO or hearing official had a

conflict of interest or bias for or against the party(ies) that affected the outcome; and/or

- iv. The sanction imposed is grossly disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.
- a. A request for appeal must be submitted in writing to the AO within 10 calendar days of receiving the DO's decision. The request must set forth the basis(es) for seeking an appeal and must include information to support such basis(es). If an appeal is requested, all parties will be notified and given the opportunity to submit a written statement.
- b. The AO shall first determine whether the basis of appeal has been met, and if so, shall review the findings and any applicable sanctions, in making a decision.
- c. The AO shall make a final determination within 15 calendar days of the receipt of any appeal, indicating one of the following:
 - i. Affirming the DO's original finding(s).
 - ii. Setting aside the DO's original finding(s) and imposing a new finding and/or sanctions.
 - iii. Setting aside the DO's original finding(s) 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).
- d. To the extent possible, the parties will be notified simultaneously in writing of the final decision following an appeal.

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12. Request for Faculty Board of Review following the AO's Determination

- a. In cases involving an academic appointee as a party, the appointee sanctioned under this policy may submit a request for review by the Faculty Board of Review (FBR) following the determination of the AO. The request for review should be made according to the specific campus FBR policy, and campus FBR procedures will apply except as modified by the provisions below.
- b. The bases for appeal are the same as those for appeal to the AO. The request for a FBR must set forth the basis(es) for seeking review and be submitted in writing within 15 calendar days of receiving the AO's determination. For good cause shown, and bearing in mind the need for timely resolution, the timeframes set forth within these procedures may be extended. If a request for a FBR is submitted, the FBR shall notify the other party(ies), as well as the DO and the AO.
- c. The FBR will only receive the Final Investigation Report; the Investigation File; the written findings of the DO, along with comments submitted by any party; the written findings of the AO; and any sanctions. The FBR may not conduct new fact-finding. The FBR may seek training and additional information from the University Director

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of Institutional Equity.

- d. Throughout the FBR process, hearing members and participants shall ensure that the privacy of the matter and the parties is upheld. If a hearing is held, it shall be closed to the public to protect the privacy of all parties. In addition to faculty members serving on the FBR hearing panel, others present during a hearing may include the party requesting review and that individual's advisor, the other party(ies) named in the report and their advisor(s), the DO, the University Coordinator, Deputy Coordinator, and/or and other university officials necessary to the proceedings. No witnesses will be allowed in the FBR. The grievant, the Complainant, 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:
 - i. Affirm the AO's determination.
 - ii. Recommend an alternative finding and/or sanction.
 - iii. 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 make a final determination within 10 calendar days, indicating one of the following:
 - i. Affirming the prior determination on appeal.
 - ii. Setting aside the prior determination on appeal and imposing a new finding and/or sanctions.
 - iii. 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 final decision. This concludes the appeal process.

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13. **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.

+STUDENT SEXUAL MISCONDUCT – UNIVERSITY COMPLAINT RESOLUTION PROCEDURES

1. Covered Behaviors

The following behaviors, as defined below, are covered under these procedures: [add links](#)

- Sexual Harassment
- Sexual Assault
- Sexual Exploitation
- Dating Violence
- Domestic Violence
- Stalking

2. Officials

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

- b. **Investigator** – An Investigator for the student affairs office of the respective campus, or an appropriate designee, will conduct fact-finding as the Investigator and will issue the Preliminary and Final Investigation Report.
- c. **Hearing Panel** – The hearing panel will review the case at the hearing and make a decision regarding whether or not the Respondent is found responsible and propose sanctions if applicable. The Hearing Panel Chair will coordinate the process and make any determinations of relevance regarding questions posed.
- d. **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.
- e. **Student Affairs Official** – The Student Affairs Official, which may be the campus dean of students, or their designee, may review the decision and sanction following an appeal by either party, and make a subsequent determination.

1. Investigation

- a. If sexual misconduct proceedings are initiated, the Investigator(s) will notify the Complainant and the Respondent. The Respondent will be provided a date by which an appointment must be made to discuss the matter. The Respondent shall be informed of the allegations made against them and shall be provided the opportunity to respond. The Respondent is expected to participate in the investigation and all related procedures, including the sexual misconduct hearing.
- b. 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 Complainants, Respondents, witnesses identified by any party, or the university. Any individual believed to have information relevant to an investigation may be contacted and requested to make an appointment to discuss the matter. The university shall determine what information and evidence will be included in the Investigation File.
- c. 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 indicated a pattern of similar prohibited conduct.
 - d. All members of the university community, including the parties and witnesses, are expected to cooperate with the investigative and hearing process. Failure to comply with a request to make and/or keep an appointment may result in a disciplinary hold being placed on the student's account and/or the initiation of student conduct charges for failure to comply.
 - e. Following the investigation, the Investigator will provide a Preliminary Investigation Report to the parties. At that time, the parties will be provided access to the Preliminary Investigation Report and Investigation File. The parties will be provided 10 calendar days to review the Preliminary Investigation Report and the Investigation File and provide any clarifying information to the Investigator. This period of 10 days will be the final opportunity for parties to submit any additional information to the Investigator.
 - f. At the conclusion of the 10-day period, the Investigator will review the information submitted by either party and determine whether and to what extent to incorporate such information into a Final Investigation Report.
 - g. At that time, the Investigator will determine the appropriate charge(s), if any, under the sexual misconduct policy and the Student Code to be placed on Respondent, and include the charge(s) in the Final Investigation Report. If the Investigator places a charge(s), the Final Investigation Report will be submitted to a hearing panel for the determination of responsibility, and the parties will be provided the Final Investigation Report and notified of next steps of the sexual misconduct process. If the Investigator determines that there is insufficient evidence to support placing a charge, the parties will be provided the Final Investigation Report and notified that no charges will be placed and the case has been closed.
 - h. The investigation and determination of responsibility will be conducted in a reasonable timeframe given the circumstances of the specific case.

2. Selection of Advisors

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.

3. Alternative Resolution Options

- i. 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 (c) below), mediation, development of action plans, voluntary resolutions, appropriate sanctions, and/or appropriate remedies.
- ii. Under any 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 or resume the complaint resolution process. Face-to-face mediation may not be used in cases involving sexual violence. The Investigator shall document the outcome of any alternative resolution and share with the parties.
- iii. In cases where the Respondent expresses a willingness to accept responsibility for any or all charges in a case, the Respondent will be offered the opportunity to waive the right to a formal hearing as to the specific charge(s) and all related procedural guarantees, and agree to receive a sanction from the designated student affairs conduct officer. In such situations, the parties will each be provided the opportunity to submit a written statement to the conduct officer for consideration in determining appropriate sanctions. The conduct officer shall consider only the parties' written statements regarding sanctions, the relevant facts from the investigation, and past conduct history of the Respondent (if applicable). In such cases, the right to appeal will be limited to an appeal on the grounds that the sanction is grossly disproportionate to the violation(s) committed, in light of all relevant aggravating and mitigating factors, and in consideration of applicable university guidelines.

4. Sexual Misconduct Hearing

- a. A three-person hearing panel will be assembled for a sexual misconduct hearing to make a determination of Respondent's responsibility as to the specific charge(s) set forth in the Final Investigation Report.
- b. Hearing panel members will be drawn from the pool of faculty, staff and graduate students who have completed the university's required annual training on issues related to sexual misconduct and university policies and procedures. At a

minimum, at least one panel member shall be a student affairs administrator.

- c. Upon review of the Final Investigation Report, the hearing panel will determine witnesses who may be called, if any, to participate in the hearing.
- d. The sexual misconduct hearing is closed. The hearing is closed except for the parties, their advisor, the hearing panelists and others university officials necessary to facilitate the proceedings.
- e. The hearing will take place in-person or will be conducted remotely via secure university software. Complainant and Respondent are expected to be available in-person or via video and audio for the duration of the hearing. Witnesses are expected to be available in-person or via video and audio for the portion of the hearing relevant to their statement.
- f. The Chair of the hearing panel shall review the charge(s) placed against the Respondent and the specific facts alleged.
- g. Both the Complainant and the Respondent will have equal opportunity to provide a statement to the hearing panel.
- h. No one other than the hearing panel members, the Complainant, and the Respondent may pose questions during the hearing. The Complainant and Respondent may not directly question each other, but may submit questions to the Chair to be asked of the other party. The Chair or other panel members will review questions prior to posing to the other party to prevent questioning that is not permitted under these proceedings.
- i. The sexual misconduct hearing is recorded. Deliberations by the panel, following the hearing, are not recorded.

5. Decision & Sanctions

- a. At the conclusion of a hearing, the panel shall deliberate without the parties present to determine responsibility for the specific charge(s) based on the evidence.
- b. If, after deliberations, the hearing panel 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 this policy and the Student Code, the hearing panel will notify both the Respondent and the Complainant by means of a written notice. The Complainant and/or Respondent may request an appeal (see Section 6).
- 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 determination regarding appropriate sanctions. The hearing panel 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 Section 6).

- d. Possible sanctions for cases in which students are 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.

6. Appeal

- a. The Respondent or the Complainant may appeal the decision of the sexual misconduct hearing panel to the Student Affairs official on the respective campus (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). If an appeal is filed, all parties will be notified and given the opportunity to file a written statement.

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- b. **Timing:**

The notice of appeal must be filed no later than ten calendar days after the date the written decision of the sexual misconduct hearing panel is sent. If an appeal is submitted by either party, the underlying decision and any corresponding sanction will be held in abeyance until final notice of the appeal outcome. During this time, any interim measures in place will remain in effect (e.g., no contact order, no trespass). 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 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 of the following criteria:

- i. Procedural irregularity that affected the outcome;
- ii. New evidence that was not reasonably available at time determination or dismissal made, that reasonably could have affected the outcome;
- iii. 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
- iv. The sanction imposed is grossly 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:**

- i. 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. 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.
- ii. 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.
- iii. The determination of the designated Student Affairs official is final and there will be no further appeals.

7. **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 may be provided electronically through Indiana University email accounts.

8. **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.

9. 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.

+ **ACADEMIC APPOINTEE AND STAFF SEXUAL MISCONDUCT – UNIVERSITY COMPLAINT RESOLUTION PROCEDURES**

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1. **Covered Behaviors**

The following behaviors, as defined below, are covered under these procedures: [add links](#)

- Sexual Harassment
- Sexual Assault
- Sexual Exploitation
- Dating Violence
- Domestic Violence
- Stalking

2. **Officials**

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

- a. **Investigator** – The Deputy Title IX Coordinator(s) 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:
 - ii. For complaints against staff employees, including temporary (hourly), the DO will be the university employee relations director or designee.
 - iii. For complaints against faculty and academic [appointees](#), the DO will be the Vice Provost/Vice Chancellor for Academic Affairs of the respective campus.
 - iv. For complaints against a Dean, a Vice Provost, or a Vice Chancellor, the DO will be the Provost/Chancellor of the respective campus.
 - v. For complaints against a University Vice President, a Provost, a Chancellor, or equivalent, the DO will be the President.
 - vi. For complaints against the President, the DO will be the Board of Trustees.
- **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:
 - i. For an appeal in a complaint against staff employees, including temporary (hourly), the Associate Vice President of University Human Resources.

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- ii. For an appeal in a complaint against faculty or academic appointees, the Provost/Chancellor of the respective campus.
- iii. For an appeal in a complaint against a Dean, a Vice Provost, or a Vice Chancellor, the President.
- iv. For an appeal in a complaint against a Vice President, a Provost, a Chancellor, or equivalent, the Board of Trustees.
 - **Faculty Board of Review (FBR)** -- In academic appointee cases, following the decision of the AO, the appointee may request a review by the campus FBR, which may review and issue a recommendation to the AO.

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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 the 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 the 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 discrimination or harassment, including when the person 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 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.
- b. Alternative Resolution Options:

In appropriate cases, the university may pursue alternative resolution with the consent of all parties at any point in the investigation process. These resolution options may include, but are not limited to mediation, development of an action plan, and voluntary resolutions. 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 used in cases involving any sexual 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 University Coordinator and the DO.

- c. Acceptance of Responsibility:
 - i. 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.
 - ii. 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 grossly 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 appropriate university officials which may include the DO. 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 employee and 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 indicated a pattern of similar prohibited conduct.
- e. 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 a Preliminary Investigation Report to the parties. At that time, the parties will be provided access to the Investigation File. The parties will be provided 10 calendar days to review the Preliminary Investigation Report and provide any clarifying information to the Investigator. This period of 10 days will be the final opportunity for parties to submit any additional information to the Investigator.
- b. The Preliminary Investigation Report will include:
 - i. the specific allegation(s);
 - ii. the Respondent's response to the allegation(s);
a summary of the relevant information gathered from the parties, witnesses and other sources; as well as explanation for any information submitted or received that was determined not relevant for inclusion;
 - iii. an analysis of the information;
- c. At the conclusion of the 10-day period, the Investigator will review the information submitted by either party and determine whether and to what extent to incorporate such information into a Final Investigation Report. The Investigator will then finalize the Final Investigation Report and include a recommendation as to whether the Respondent is responsible or not responsible for the alleged violation(s) of this policy, using a preponderance of the evidence standard (more likely than not); and a recommendation as to appropriate sanctions, if any, as set forth below.
- d. The Investigator will provide the Final Investigation Report to the DO, as well as

to each party.

8. Finding and Decision

- a. Upon receiving the Final Investigation Report, the DO shall issue a finding. The DO may consult with the Investigator concerning the investigation and recommendations. The DO will provide each party the opportunity to meet with them and provide comment and make a statement. If the DO wishes further consultation with the parties, the Investigator will facilitate consultations to ensure equal opportunities is provided for the parties.
- b. The DO will issue one of the following findings, using a preponderance of the evidence standard:
 - i. Finding of “No Violation”:

If there is a determination that the behavior alleged and investigated did not violate this policy, the DO shall provide the parties written notice of the finding. In the event the investigation reveals that the employee may have violated a different university 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 respective Deputy Title IX Coordinator’s office, and not in the employee’s personnel file.
 - ii. Finding of a “Violation”:

If there is a determination that the behavior alleged and investigated was in violation of this policy, the DO shall issue the finding and sanction(s) (based on the level of sanctions set forth below).
- c. The DO shall provide the parties written notice of the finding and any sanctions, if applicable.

9. Sanctions

- a. Sanctions for a violation of this policy include the following:
 - i. 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.
 - ii. 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

10. Appeals

- a. Following the decision, either party may appeal to the Appellate Officer (AO) on the basis of:
 - i. Significant procedural error that reasonably would have affected the outcome.
 - ii. Newly discovered evidence that could affect the outcome.
 - iii. Significant bias in the process.
 - iv. The finding of responsibility is not supported by the evidence in the Report of Investigation.
 - v. The appropriateness of the sanctions.
- b. A request for appeal must be submitted in writing to the AO within 10 calendar days of receiving the DO's decision. The request must set forth the basis(es) for seeking an appeal and must include information to support such basis(es). If an appeal is requested, all parties will be notified and given the opportunity to submit a written statement.
- c. The AO shall first determine whether the basis of appeal has been met, and if so, shall review the findings and any applicable sanctions, in making a determination.
- d. The AO shall make a final determination within 15 calendar days of the receipt of any appeal, indicating one of the following:
 - i. Affirming the DO's original finding(s).
 - ii. Setting aside the DO's original finding(s) and imposing a new finding and/or sanctions.
 - iii. Setting aside the DO's original finding(s) 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).
- e. To the extent possible, the parties will be notified simultaneously in writing of the final determination following an appeal.

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11. Request for Faculty Board of Review

- a. In cases involving an academic appointee as a party, the appointee sanctioned under this policy may submit a request for review by the Faculty Board of Review (FBR) following the determination of the AO. The request for review should be made according to the specific campus FBR policy, and campus FBR procedures will apply except as modified by the provisions below.
- b. The bases for appeal are the same as those for appeal to the AO. The request for a FBR must set forth the basis(es) for seeking review and be submitted in writing within 15 calendar days of receiving the AO's determination. For good cause

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shown, and bearing in mind the need for timely resolution, the timeframes set forth within these procedures may be extended. If a request for a FBR is submitted, the FBR shall notify the other party(ies), as well as the DO and the AO.

- c. The FBR will only receive the Final Investigation Report; the Investigation File; the written findings of the DO, along with comments submitted by any party; the written findings of the AO; and any sanctions. The FBR may not conduct new fact-finding. The FBR may seek training and additional information from the University Director of Institutional Equity.
- d. Throughout the FBR process, hearing members and participants shall ensure that the privacy of the matter and the parties is upheld. If a hearing is held, it shall be closed to the public to protect the privacy of all parties. In addition to faculty members serving on the FBR hearing panel, others present during a hearing may include the party requesting review and that individual's advisor, the other party(ies) named in the report and their advisor(s), the DO, the University Coordinator, Deputy Coordinator, and/or and other university officials necessary to the proceedings. No witnesses will be allowed in the FBR. The grievant, the Complainant, 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:
 - i Affirm the AO's determination.
 - ii Recommend an alternative finding and/or sanction.
 - iii 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 make a final determination within 10 calendar days, indicating one of the following:
 - i Affirming the prior determination on appeal.
 - ii Setting aside the prior determination on appeal and imposing a new finding and/or sanctions.
 - iii 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).

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- 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 final decision. 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

Academic Appointee: For purposes of this policy only, all individuals covered by ACA-14, Classification of Academic Appointments, including visiting, adjunct and acting faculty; emeritus faculty; and academic specialists; but not including Student Academic Appointees.

Commented [AT15]: There is consensus from the UFC Policy Review Committee and the UFC co-chairs that we would like this definition included.

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, does 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] add link

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:

- Consent can be withdrawn at any time, as long as it is clearly communicated.
- Consent cannot be coerced or compelled by force, threat, deception or intimidation.
- Consent cannot be given by someone who is incapacitated, as defined below.
- 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: [add link](#)

FOR TITLE IX COMPLAINT RESOLUTION PROCEDURES:

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.

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] [add link](#)

Domestic Violence: [add link](#)

FOR TITLE IX COMPLAINT RESOLUTION PROCEDURES:

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

- 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 under the domestic or family violence laws of Indiana;
- 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 ~~whether paid or unpaid~~ – academic [appointees](#), including faculty and other instructors, and staff, including full-time, part-time, and temporary (hourly) employees at any university campus or working on behalf of the university.

Commented [AT16]: Some staff at Med School are not paid but make money from seeing patients.

Deleted: employees

Equity Officials: [add link](#) The individual designated by the university to respond to allegations of discrimination or harassment based on protected categories 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] [add link](#)

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 witnesses (see also Advisor [add link](#)).

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, research, or a program or activity sponsored, conducted, or authorized by a registered student organization.

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.

Laws and Regulations: Relevant laws and regulations that may apply to allegations raised under this policy include, but are not limited to: Age Discrimination Act of 1975; Age Discrimination in Employment Act of 1967; Americans with Disabilities Act of 1990; Equal Pay Act of 1963; Lilly Ledbetter Fair Pay Act of 2009; Genetic Information Discrimination Act of 2008; Pregnancy Discrimination Act of 1978; the Department of Labor's Executive Order 11246; Section 402 of the Veterans Readjustment Act of 1974; Section 503 of the Rehabilitation Act of 1973; Title VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; the requirements of federal research agencies; and relevant state laws and regulations.

Member of the Indiana University Community: Any individual who is a student, staff, [academic appointee](#), university official, or any other individual employed by, or acting on behalf of, the university; other individuals while on Indiana University property, including employees of third-party vendors and contractors, volunteers, and visitors. An individual's status in a particular situation shall be determined by the Sexual Misconduct & Title IX Coordinator or the Equity Official, in consultation with applicable campus offices.

Deleted: faculty member

Respondent: Any member of the university community alleged to have engaged in conduct that could constitute discrimination, harassment, and/or sexual misconduct; or retaliation for engaging in protected activity under this policy.

Responsible Employee: (see above) (add link), Includes those university employees identified under this policy as having a duty to report incidents of sexual misconduct to the appropriate University or Deputy Coordinator.

Retaliation: [see above] add link

Sanctioning Official: An individual with extensive knowledge of the applicability and implementation of the proceedings conducted pursuant to this policy who is authorized by the university to confer with a hearing panel about the range of available sanctions in a particular case, to make sanctioning determinations, and to ensure that the sanctions imposed are proportional to the severity of the violation and consistent with university standards. A Sanctioning Official is designated on each campus by the campus's Senior Student Affairs Administrator in consultation with the University Title IX Coordinator. Subject to the approval of the campus's Senior Student Affairs Administrator and University Title IX Coordinator, a Sanctioning Official is authorized to appoint a designee who will perform the Sanctioning Official's duties in the event of the absence or unavailability of the Sanctioning Official.

Sexual Assault: add link

FOR TITLE IX COMPLAINT RESOLUTION PROCEDURES:

Sexual Assault Includes:

I. Sex Offenses, Forcible—Any sexual act directed against another person, without the consent (add link) of the Complainant, including instances where the Complainant is incapable of giving consent. It includes:

- Forcible Rape -- Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- Forcible Sodomy—Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Sexual Assault With An Object—To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Forcible Fondling—The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

II. Sex Offenses, Nonforcible— Nonforcible sexual intercourse. It includes:

- Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Indiana law.
- Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent according to Indiana law IC 35-42-4-9.

FOR UNIVERSITY COMPLAINT RESOLUTION PROCEDURES:

Sexual Assault Includes:

- I. Non-consensual sexual penetration is committed when an individual subjects another individual to sexual penetration without the consent [\[add link\]](#) of the individual, and/or by force.
- II. Non-consensual sexual contact is intentional sexual touching by an individual of the intimate area of another individual (i.e., genitals, breasts, buttocks) or intentional sexual touching of another individual with any of these body parts, without the consent [\[add link\]](#) of the individual, and/or by force.

Sexual Exploitation: [add link](#) Conduct that extends the bounds of consensual sexual activity with or without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. Examples of sexual exploitation include but are not limited to:

1. Non-consensual streaming, audio- or video-recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without consent of all parties involved;
2. Allowing others to view sexual acts (whether in person or via a video camera or other recording device) without the consent of all parties involved;
3. Engaging in any form of voyeurism (e.g., “peeping”);
4. Prostituting another individual;
5. Compelling another individual to touch their own or another individual’s (third-party) intimate parts without consent;
6. Knowingly exposing another individual to a sexually transmitted disease or virus without that individual’s knowledge;
7. Deception regarding contraceptives; and
8. Inducing incapacitation for the purpose of making another individual vulnerable to non-consensual sexual activity.

Sex/Gender-Based Harassment: [\(add link to above\)](#) Sex/gender-based discrimination is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation, or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits an individual's ability to participate in or benefit from the university's education or work programs or activities. For example, persistent disparagement of an individual based on a perceived lack of stereotypical masculinity or femininity or exclusion from an activity based on sexual orientation or gender identity is prohibited under this policy.

Sexual Harassment: [add link to above](#)

FOR TITLE IX COMPLAINT RESOLUTION PROCEDURES:

Conduct on the basis of sex or that is sexual in nature that satisfies one or more of the following: 1) An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome* sexual conduct; and/or (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.

Sexual Harassment also includes sexual assault, dating violence, domestic violence and stalking defined herein.

Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances as the Complainant, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

FOR UNIVERSITY COMPLAINT RESOLUTION PROCEDURES:

Conduct on the basis of sex or that is sexual in nature that satisfies one or more of the following:

- 1) A member of the university conditioning the provision of an aid, benefit, or service of the university, on an individual's participation in unwelcome* sexual conduct.
- 2) Unwelcome conduct determined by a reasonable person, to be so severe, pervasive or persistent, and objectively offensive, that it effectively denies a person equal access to the university's education program or activity.

Sexual Harassment also includes sexual assault, dating violence, domestic violence and stalking defined herein.

Severity, pervasiveness, persistence, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or

similar circumstances as the Complainant, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Sexual Misconduct: Broad term to encompass the range of sex-based behaviors covered by this policy.

University Sexual Misconduct & Title IX Coordinator: [add link above] The individual designated by the university to coordinate the university's compliance with Title IX and respond to allegations of sexual misconduct by members of the university community. In some circumstances, this can include the Sexual Misconduct & Title IX Coordinator's designee. Members of the university community may contact the University or campus Deputy Sexual Misconduct & Title IX Coordinator regarding the sexual misconduct policy and process.

Sexual Penetration: Sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the actor's or individual's body or any object manipulated by the actor into the genital or anal openings of the individual's body.

Stalking: [add link](#)

FOR TITLE IX COMPLAINT RESOLUTION PROCEDURES:

Engaging in a course of conduct* directed at a specific person that would cause a reasonable person to i) fear for the person's safety or the safety of others; or ii) suffer substantial emotional distress.

FOR UNIVERSITY COMPLAINT RESOLUTION PROCEDURES:

A knowing or an intentional course of conduct* involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened. The term does not include statutorily or constitutionally protected activity.

For the purposes of the definitions above—

Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.

(ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

Student: Defined by the [Code of Student Rights, Responsibilities, and Conduct](http://studentcode.iu.edu/appendices/definitions.html) (<http://studentcode.iu.edu/appendices/definitions.html>)

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

Violations of this policy by an individual will be addressed in accordance with applicable university policies and procedures, referenced above, which may include disciplinary actions up to and including expulsion or termination from the university. When determining appropriate sanctions, the university may consider prior findings of misconduct. Violations of law will be addressed by law enforcement and may result in criminal penalties.

Additional Contacts