

POLICY STATEMENT

Subject: Sexual Harassment and Sexual Violence Policy - DRAFT REVISION – Spring 2014

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Addition X

Originating Office:
President

President's Approval:

1. POLICY:

Indiana University of Pennsylvania is committed to maintaining a learning and work environment that is free from sexual harassment and sexual violence. Acts of sexual harassment or sexual violence, including sexual assault, dating violence, domestic violence, and stalking, seriously undermine the atmosphere of trust and respect that is essential to a university community. Moreover, sexual harassment and sexual violence are legally prohibited and will not be tolerated. Sexual harassment and sexual violence are forms of sex discrimination prohibited under Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Pennsylvania Human Relations Act. It is imperative that all employees, students, and vendors comply with federal, state, and local laws, government regulations, and court orders which relate to sexual harassment and sexual violence. It is the purpose of this policy to define prohibited conduct and provide guidance on the procedures for addressing complaints involving sexual harassment or sexual violence, including sexual assault, dating violence, domestic violence, and stalking. Persons found to be in violation of this policy will be subject to disciplinary action up to and including expulsion for students and termination for employees.

All students, managers, administrators, faculty, staff, and vendors have a responsibility to adhere to the contents of this Policy. Employees of the university community are required to report complaints of sexual harassment and sexual violence promptly in accordance with the Sexual Harassment and Sexual Violence Complaint Procedures set forth herein. Reporting by employees is required even when the victim of the alleged conduct elects or is unable to make such a report.

IUP prohibits retaliatory action against persons filing an informal or formal complaint of sexual harassment and sexual violence or any person cooperating in the investigation of such a charge, as a complainant, respondent, witness, or other participant. Nor will the university tolerate knowingly making false charges. Acts of retaliation or knowingly making false charges shall constitute misconduct subject to disciplinary action up to and including expulsion for students and termination for employees.

To the extent possible, all complaints of sexual harassment and sexual violence shall be considered confidential, and only those persons who are necessary for the investigation and resolution of the complaint will be given information regarding the matter. As much as possible, consistent with the university's legal obligations related to federal and state regulations and to protect the rights and security of its employees and students, the university will respect the confidentiality of both the complainant and the accused.

2. DEFINITIONS:

Sexual harassment and sexual violence consist of the following:

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature (including sexual assault, dating violence, domestic violence, and stalking), when:
 - submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment or education; or
 - submission to, or rejection of, that conduct is used as the basis for an employment or academic decision affecting such individuals; or
 - such conduct is sufficiently severe or pervasive as to have the effect of creating a hostile or offensive work or educational environment that substantially interferes with work or educational performance or negatively affects an individual's employment or educational opportunities.

Sexually harassing conduct may include but is not limited to verbal, physical, written, graphic, pictorial, and sexual violence incidents. Not every act that may be offensive to an individual or group constitutes sexual harassment. In determining whether sexual harassment or sexual violence has occurred, the totality of the circumstances surrounding the incident must be carefully reviewed and due consideration must be given to the protection of individuals' rights, freedom of speech, academic freedom, and advocacy. Complaints of sexual harassment and sexual violence, including sexual assault, dating violence, domestic violence, and stalking, will be reviewed from a standard of a "reasonable person" as the same sex of the complainant.

3. COMPLAINT PROCEDURES:

Sexual harassment and sexual violence, including sexual assault, dating violence, domestic violence, and stalking, can often be resolved by the person who feels he or she is being harassed by informing the alleged offender that the conduct is unwelcome and must stop. The complainant should do so as soon as possible after the incident occurs.

In some circumstances, however, this course of action may not be feasible or may be unsuccessful, or the complainant may be reluctant or unwilling to address the matter in this manner. To encourage persons experiencing alleged sexual harassment and sexual violence to come forward, the university provides both informal and formal complaint resolution procedures. As time passes, it may become more difficult to investigate and resolve complaints. In addition, because there are time limitations for filing external complaints with state and federal agencies, prompt action by the complainant is important. Questions about the Sexual Harassment and Sexual Violence Complaint Procedures involving employees or vendors should be referred to the assistant to the president for Social Equity, B17 Susan Snell Delaney Hall, at 724-357-3402.

Employees are required to report all known crimes that are related to the university (location, programs, events, personnel, students, vendors), regardless of their nature, to the Office of Public Safety. Allegations of sexual violence, including sexual assault, dating violence, domestic violence, and stalking, are to be reported either to the Office of Public Safety, University Towers, at 724-357-2141, or one of the individuals identified as campus security authority coordinators (See Section 4).

Employees are required to report allegations of child sexual abuse, which are contemporary and related to the university (location, programs, event, personnel, students, vendors), to the employee's supervisor and the Office of Public Safety, at 724-357-2141.

FORMAL AND INFORMAL COMPLAINT RESOLUTION PROCEDURES FOR ALLEGATIONS AGAINST STUDENTS

The procedures for processing a sexual harassment and sexual violence complaint against a student (student to student or allegations in which the alleged offender is a student) are described in and governed by the Policies and Regulations Regarding Student Behavior. To report a complaint of sexual harassment or sexual violence, including sexual assault, dating violence, domestic violence, and stalking, against a student and discuss options, contact a Campus Security Authority coordinator; the Office of Student Conduct, 102 Pratt Hall, at 724-357-1264; or the Title IX coordinator.

PROCEDURES FOR ALLEGATIONS AGAINST EMPLOYEES AND VENDORS

Informal Complaint Resolution Procedures for Allegations of Sexual Harassment

If the complainant of an allegation of sexual harassment is reluctant or unwilling to inform the alleged offender that the behavior is unwelcome, the informal complaint resolution procedure requires the complainant to report the complaint, either verbally or in writing, to one of the following: 1) the complainant's immediate management supervisor or academic dean; 2) the alleged offender's management supervisor or academic dean, (hereafter referred to collectively as "informal investigator"); 3) the associate vice president for Human Resources; or 4) the assistant to the president for Social Equity. The trained informal investigator receiving the complaint must report it immediately to the assistant to the president for Social Equity, who will work with the informal investigator to facilitate a resolution of the complaint.

The informal complaint resolution process provides an opportunity for the complaint to be resolved by mutual agreement between the complainant and the alleged offender. The implementation of this informal process is the responsibility of the informal investigator. To ensure compliance with the university's legal obligations, and/or as otherwise determined to be appropriate by the complainant or the assistant to the president for Social Equity, the complainant or the assistant to the president for Social Equity may move a complaint from Informal Complaint Resolution to Formal Complaint Resolution at any time.

If the complaint is against the assistant to the president for Social Equity, the informal complaint must be filed with the associate vice president for Human Resources. If the complaint is against the associate vice president for Human Resources, the informal complaint must be filed with the assistant to the president for Social Equity.

The trained informal investigator is expected to review the complaint expeditiously and explore avenues for informal resolution with the complainant. The university recognizes that it must balance the complainant's right of privacy and the need to be fair to the alleged offender by notifying the alleged offender of the allegation. The written complaint or a summary of the complaint will be provided by the informal investigator to the alleged offender. The trained informal investigator has the discretion to determine whether the situation warrants a meeting(s), either jointly with the complainant and the alleged offender or separately. Any person involved in the informal resolution discussion may be accompanied by an individual or appropriate union official if he/she so desires. The complainant may not be compelled to meet with the alleged offender. The trained informal investigator has the discretion to determine whether investigation of the complaint requires interviewing other persons who may have witnessed the alleged behavior or might have information that would be helpful.

Informal investigators should attempt to resolve complaints expeditiously, but in a manner that is consistent with the severity or complexity of the matter. To the extent possible, it is expected that the informal resolution process will be completed in a timely manner. The informal investigator shall notify the complainant in writing of the results of the investigation and the action taken by the university to resolve the complaint. If informal resolution fails to resolve the matter to the complainant's satisfaction, the complainant may file a formal complaint.

At the conclusion of the informal investigation, all records from the informal resolution process will be forwarded to the assistant to the president for Social Equity to be maintained in a confidential file for seven years.

Formal Complaint Resolution Procedures

If the complainant is not satisfied with the outcome of the informal resolution of a sexual harassment complaint or the complainant intends to file his or her allegation of sexual violence, including sexual assault, dating violence, domestic violence, or stalking, directly at the formal complaint level, he or she may do so by filing a written complaint with the assistant to the president for Social Equity or the associate vice president for Human Resources (hereafter referred to collectively as “formal investigator”). The written complaint should describe the incident or incidents as completely as possible. The complainant may seek guidance regarding the formal submission of the complaint from the trained investigator of the formal complaint.

If the complaint is against the assistant to the president for Social Equity, the formal complaint must be filed with the associate vice president for Human Resources. If the complaint is against the associate vice president for Human Resources, the formal complaint must be filed with the assistant to the president for Social Equity. A complaint against the president or a member of the Council of Trustees may be directed to the Office of the Chancellor or to the assistant to the president for Social Equity, who will forward the written complaint to the Office of the Chancellor for investigation.

The trained formal investigator of the formal complaint will conduct the investigation including notifying the alleged offender, providing a copy of the written complaint to the alleged offender, conducting interviews with the complainant and the alleged offender and with anyone who might have witnessed the behavior or who might have information that would be helpful. Any person involved in the formal resolution discussion may be accompanied by an individual or appropriate union official if he/she so desires.

The investigator will conduct the investigation expeditiously, but in a manner consistent with the complexity and severity of the matter. At the conclusion of the investigation, the formal investigator will prepare a report of findings and submit the report to the president or his or her designee.

The president or designee will determine what appropriate action, if any, will be taken, based upon information sufficient to make a reasonable person believe that a fact sought to be proved is more likely true than not. A pre-disciplinary conference will be held if sufficient evidence is found in the report of findings. If disciplinary action is taken as a result of the pre-disciplinary conference, the alleged offender may appeal the decision as provided in the grievance procedures of his or her respective collective bargaining agreement or the Management Merit Principles Policy, whichever is applicable.

Once the president or designee has rendered a decision and notified the alleged offender in writing, the formal investigator shall notify the complainant in writing of the results of the investigation and the action taken by the university to resolve the complaint.

At the conclusion of the formal investigation, all records will be maintained by the assistant to the president for Social Equity in a confidential file for seven years.

Records of investigations will not be maintained in personnel files unless formal disciplinary action is taken. Upon filing of a complaint outside the university, information gathered in the course of the investigation may be disclosed, as appropriate.

4. RESPONSIBILITIES:

While it is the responsibility of the university to disseminate this policy, it is the responsibility of each member of the university community to read the Policy and to become familiar with its provisions. Failure to follow the procedures set forth in this policy may inhibit or prevent the university from properly investigating an instance of alleged sexual harassment and sexual violence, or from taking appropriate remedial action. Any administrator, supervisor, faculty member, staff member, or student employee having knowledge of such conduct or receiving a complaint that involves a member of the university is required to take immediate steps to deal with the matter appropriately. These steps are outlined in Section 3.

It is imperative to maintain an environment free from sexual harassment and sexual violence. To provide such an environment, the following actions shall be taken:

- Deans, directors, department heads, and supervisors shall inform all employees that sexual harassment and sexual violence is prohibited. This policy shall be emphasized by the deans at college meetings and explained by department chairs to academic staff and classified employees. Managers and directors shall discuss the issue in staff meetings. Those who have questions about this policy shall be referred to the assistant to the president for Social Equity immediately.
- Deans, department chairs, directors, managers, and resident directors shall be encouraged to invite the assistant to the president for Social Equity, the university's Title IX coordinator, and Title IX deputies to talk to others concerning IUP's Sexual Harassment and Sexual Violence Policy.
- In instances of sexual assault or sexual violence, campus security authority coordinators are to follow the policies and procedures set forth more fully in the University's Annual Security Report.
- The assistant to the president for Social Equity shall ensure this policy accurately reflects contact persons and is placed in appropriate publications, including the undergraduate and graduate catalogs and appropriate university websites.
- The assistant to the president for Social Equity and Title IX coordinator shall be responsible for distributing this policy annually to all employees and for coordinating sexual harassment and sexual violence awareness training for all employees, student employees, and students.
- The assistant to the president for Social Equity will provide training to investigators of informal and formal allegations against employees or vendors.
- The assistant to the president for Social Equity shall distribute and disseminate pamphlets and educational materials including resources and support available for display in every department and college office.
- The assistant to the president for Social Equity shall ensure the policy is distributed to appropriate offices that will distribute this policy to outside vendors.
- Faculty members whose professional responsibilities are to serve as mental health counselors in IUP's Counseling Center and physicians and nurse practitioners who provide medical care in IUP's Health Center are exempt from reporting allegations of sexual harassment or sexual violence, including sexual assault, dating violence, domestic violence, or stalking.
- Campus security authorities (CSAs) are required to report Clery crimes to campus police or the director of Public Safety including but not limited to crimes involving sexual assault, dating violence, domestic violence, stalking, and hate crimes. For a complete list of all crimes that must be reported, see the university's Annual Security Report. CSAs are individuals who serve as 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 student conduct proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution." IUP has identified individuals as CSA coordinators, to whom campus community members may report crimes, including allegations of sexual violence.

(This list will be updated annually, and updates will not be considered a change in the approved policy.)

Mr. Sam Clutter, Director of Public Safety	724-357-2141
Ms. Kate Linder, Associate Dean of Students, Deputy Title IX Coordinator, Student Conduct	724-357-1264
Ms. Sondra Dennison, Assistant Dean, Living/Learning, Deputy Title IX Coordinator, Training	724-357-2696
Dr. Frank Condino, Director, Intercollegiate Athletics	724-357-2782
General Manager, Kovalchick Convention and Athletic Complex	724-357-5222
Mr. Lou Garzarelli, Director, Operations, Student Cooperative Association	724-357-1374
Mr. Richard Muth, Director, Northpointe Campus	724-294-3309
Ms. Paula Stossel, Assistant Dean, Monroeville Campus	724-357-1293
Mr. Theo Turner, Assistant Dean of Students, Punxsutawney Campus	814-938-6711
Dr. Rhonda Luckey, Vice President for Student Affairs, Title IX Coordinator	724-357-2220

5. REVISION:

This policy will not be rescinded or modified except by action of the IUP President, following consultation with the University Senate, and in accordance with University Senate By-Laws and Constitution.

6. DISTRIBUTION:

Distribution Code

Description:

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All Employees; All Students