

POLICY STATEMENT

Subject: Sexual Harassment and Sexual Violence Policy

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Revision

Originating Office:
President

President's Approval:
Michael A. Driscoll

1. POLICY:

Indiana University of Pennsylvania is committed to maintaining a learning and work environment that is free from sexual harassment and sexual violence. Sexual harassment and sexual violence are forms of sex discrimination prohibited under Titles IV and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Pennsylvania Human Relations Act. 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. The purpose of this Policy is 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, vendors, and designated volunteers 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 and in accordance with this Policy. Persons who have been victimized also have the option of reporting to the Office of Public Safety, Campus Securities Authorities, or the University Title IX Coordinator.

IUP prohibits retaliatory action against persons filing complaints 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. The university will not 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.

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, and only those persons who are necessary for the investigation and resolution of the complaint will be given information regarding the matter.

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 an individual; 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.

Sexual harassment may include verbal and non-verbal communications and other physical conduct. 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" of the same sex as the complainant.

3. COMPLAINT PROCEDURES:

To encourage persons experiencing alleged sexual harassment to come forward, the university provides both informal and formal complaint resolution procedures. Sexual harassment 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. However, in some circumstances of sexual harassment and for allegations of sexual violence, including sexual assault, dating violence, domestic violence, and stalking, this is neither feasible nor successful. The alleged victim of sexual harassment has no obligation to ask an alleged offender to stop. All allegations of sexual violence will be pursued under the University's formal complaint resolution procedures. Allegations of sexual harassment may be pursued under the informal complaint resolution process where both the complainant and the alleged offender agree, or through the formal complaint resolution process.

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. Information gathered in the course of an investigation, under this Policy, may be disclosed, as appropriate, in response to external complaints filed against the University. Questions about the procedures under this Policy involving employees, vendors, or designated volunteers should be referred to the Title IX Coordinator, B17 Susan Snell Delaney Hall, at 724-357-3402.

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 addressed through a formal student conduct proceeding, which is described in and governed by the Student Conduct Policies and Regulations.

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; the Office of Student Conduct, 307 Pratt Hall at 724-357-1264; or the Title IX Coordinator. If the student does not want to proceed with a student conduct complaint or police report, the Title IX Coordinator will still investigate to determine what occurred and take appropriate steps to resolve the situation, mindful of the University's obligation to provide a safe and nondiscriminatory environment for all students.

PROCEDURES FOR ALLEGATIONS AGAINST EMPLOYEES, VENDORS, AND DESIGNATED VOLUNTEERS **Informal Complaint Resolution Procedures for Allegations of Sexual Harassment**

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 informal complaint resolution process 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 Title IX Coordinator. The informal investigator receiving the complaint must report it immediately to the Title IX Coordinator, who will work with the informal investigator to facilitate a

resolution of the complaint. Informal complaint procedures may not be used for allegations of sexual violence, including sexual assault, dating violence, domestic violence, and stalking.

To ensure compliance with the university's legal obligations, and/or as otherwise determined to be appropriate by the complainant or the Title IX Coordinator, the complaint may be moved from informal complaint resolution process to the formal complaint resolution process at any time.

If the complaint is against the Title IX Coordinator, 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 Title IX Coordinator.

The 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 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 s/he so desires. The complainant will not be compelled to meet with the alleged offender. The 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 and in a timely manner, but in a manner that is consistent with the severity or complexity of the matter. The informal investigator shall notify the complainant and alleged offender 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 move the complaint to the formal complaint resolution process.

Information concerning complaints must be shared by the informal investigator with the Title IX Coordinator, to ensure compliance obligations of the University are met. Allegations of sexual violence will only be addressed through the formal complaint resolution procedures.

At the conclusion of the informal investigation, all records from the informal resolution process will be forwarded to the Title IX Coordinator to be maintained in accordance with the University's records retention policy.

Formal Complaint Resolution Procedures

Allegations of sexual harassment may also be addressed through the formal complaint resolution process. The formal complaint resolution process is initiated by a complaint being transferred from the Informal Complaint Resolution Process or by filing a written complaint with the Title IX Coordinator (hereafter referred to collectively as "formal investigator").

Allegations of sexual violence, including sexual assault, dating violence, domestic violence, or stalking must be filed through a written complaint with the Title IX Coordinator. The written complaint should describe the incident or incidents as completely as possible. The complainant may seek assistance and guidance regarding the formal submission of the complaint from the formal investigator.

If the complaint is against the Title IX Coordinator, 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 Title IX Coordinator. 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 Title IX Coordinator, who will forward the written complaint to the Office of the Chancellor for investigation.

The formal investigator 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 process may be accompanied by an individual or appropriate union official if s/he so desires.

The investigation will be conducted in a timely 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, to the extent possible within a 60-day period, after the filing of the allegation.

The President or designee will determine what appropriate action, if any, will be taken, based upon the preponderance of the evidence. 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 discipline as provided in the grievance procedures of his or her respective collective bargaining agreement or the Management Merit Principles Policy (Policy 1983-01-A), whichever is applicable. The complainant also has the right to appeal to the President of the university.

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, the Title IX Coordinator will retain all records from the formal resolution process in accordance with the University's records retention policy.

Records of investigations will not be maintained in personnel files unless formal disciplinary action is taken.

4. RESPONSIBILITIES:

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 or sexual violence, or from taking appropriate remedial action. Any administrator, supervisor, faculty member, staff member, student employee, vendor, or designated volunteer 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 – Complaint Procedures.

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 departmental employees. Managers and directors shall discuss the issue in staff meetings. Those who have questions about this Policy shall be referred to the Title IX Coordinator.
- Deans, department chairs, directors, managers, and resident directors shall be encouraged to invite the Title IX Coordinator to talk to others concerning this Policy.
- The Title IX Coordinator 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 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 and students.
- The Title IX Coordinator will provide training to investigators of informal and formal allegations against employees, vendors, or designated volunteers, under both the informal and formal complaint resolution procedures.
- The Title IX Coordinator shall distribute and disseminate pamphlets and educational materials including resources and support available for display in every university department.
- The Title IX Coordinator shall ensure the Policy is distributed to appropriate offices that will distribute this Policy to outside vendors.
- The Title IX Coordinator shall oversee the process of officially recognizing those individuals who may provide confidential services to alleged victims of sexual violence.
- IUP recognizes and honors privilege granted by applicable statutes. IUP licensed psychologists, mental health counselors, and graduate students in the Counseling Center, licensed psychologists and graduate students in the Center for Applied Psychology, and physicians and nurse practitioners working in the Health Service, are not required to disclose any information concerning an alleged victim of sexual violence, including sexual assault, dating violence, domestic violence, and stalking, to the IUP Title IX Coordinator without an alleged victim's consent. This privilege does not apply when the alleged victim is a minor.
- IUP individuals who support alleged victims of sexual violence may provide confidential services, at the request of the alleged victim. Although a legally recognized privilege may not attach to these roles, the University respects the alleged victim's expectations of privacy to the extent permissible by law while still ensuring compliance with other reporting obligations. Individuals authorized to have confidentiality are required to report the nature, date, time, and general location of an allegation of sexual violence to the Title IX Coordinator. Confidentiality does not apply when the alleged victim is a minor. Unless the alleged victim consents to the release of his/her name, recognized individuals providing confidential services will not release the alleged victim's personally identifiable information to the Title IX Coordinator. Supervisors may submit a request to the Title IX Coordinator that personnel they supervise be officially recognized as having confidentiality.
- Campus Security Authorities (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 CSAs, to whom campus community members may report crimes, including allegations of sexual violence. CSAs will be trained to inform alleged victims of all crimes or sexual violence, including sexual assault, dating violence, domestic violence, stalking, or hate crimes, of resources available.

- 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. Report allegations of sexual assault, dating violence, domestic violence, and stalking to the Title IX Coordinator. For a complete list of all crimes that must be reported, see the university’s Annual Security Report.

(A list of CSAs will be updated annually, and updates will not be considered a change in the approved Policy.)

In general, Campus Security Authorities (CSAs) are individuals or organizations of an institution of higher education that, by virtue of their job or position function, are required to report crimes that have been brought to their attention. These mandatory crime reporters encompass four groups of individuals and organizations: campus police/security; individuals responsible for security on campus but are not members of a campus police/security department; individuals/organizations specified by institution policy as receivers of criminal reports; and, an official of the institution that has significant responsibility for student and campus activities. For more information about CSAs and a complete list of individuals/organizations identified as such, please visit: www.iup.edu/police/about/security

Examples of CSA Contacts:

Mr. Kevin Thelen, Director of Public Safety and University Police:	724-357-2141
Dr. Sondra Dennison, Interim Title IX Coordinator and Executive Director of Housing, Residential Living, and Dining:	724-357-3402 or 357-2696
Ms. Paula Stossel, Interim Title IX Deputy Coordinator and Asst. Vice President For Graduate Enrollment and Processing:	724-357-7879
Mr. Craig Bickley, Associate Vice President for Human Resources:	724-357-2431
Mr. Richard Muth, Director of Northpointe, Punxsutawney and Monroeville Campuses:	724-294-3309

- Employees are required to report allegations of child sexual abuse, which are contemporary and related to the university (location, programs, event, personnel, students, vendors, or designated volunteers), in accordance with BOG Policy 2014-01. Mandated reporters must immediately make an oral report of suspected child abuse to the Department of Public Welfare (DPW) by calling 1-800-932-0313, or a written report to DPW using electronic technologies when available. If an oral report is made, a written report shall also be made within 48 hours to DPW or the county agency assigned to the case as prescribed by DPW. Immediately following the report to DPW, the mandatory reporter must notify the University Police who will assume responsibility for facilitating the university’s cooperation with the investigation of the report.

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
A

Description:
All Employees; All Students