

POLICY STATEMENT

Subject: Sexual Discrimination/Misconduct Policy

Date: Established August 24, 2003

Revision Dates: August 8, 2008; February 29, 2012;
April 29, 2014; May 1, 2018, April 30, 2019

Originating Office: President

President's Approval: Michael A. Driscoll

Distribution Code: A

May 13, 2019

A. Purpose

The purpose of this policy is to set forth Indiana University of Pennsylvania (the "University")'s position regarding sexual misconduct, including discrimination on the basis of sex/gender in any education program, activity or employment for the University community. The University is committed to creating an educational and employment environment free of sexual discrimination for all of its employees, students, and University community. Discrimination on the basis of sex/gender may constitute a violation of Title VII of the U.S. Civil Rights Act of 1964 ("Title VII"), a violation of Title IX of the Education Amendments of 1972 ("Title IX"), and/or a violation of the Pennsylvania Human Relations Act, Section 5A ("PHRA"). Sexual misconduct includes unlawful discrimination or harassment based on sex or gender. In addition, this policy outlines the procedures to be followed when reporting complaints of sexual misconduct. Following these procedures will assure that a prompt, adequate, reliable and impartial investigation is undertaken by the University. The goal of this policy is to prevent sex- and gender-based discrimination and sexual misconduct and effectively remedy the discriminatory effect of sexual misconduct when it occurs.

B. Scope

This policy is applicable to all students and employees of the University, as well as designated volunteers, contractors, and vendors. This policy is applicable to all University operations, programs, sites, and covers acts committed on- or off-University property when that activity is deemed to constitute sexual discrimination/misconduct.

C. Objective

Members of the University community have the right to be free from all forms of sex- and gender-based harassment, discrimination, and misconduct. All members of the University community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define University community standards and establish a mechanism for determining when those expectations are alleged to have been violated.

This policy is not meant to inhibit or prohibit educational content or discussions that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern. This policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression, as well as the principles of academic freedom. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state laws including Title VII, Title IX, and the PHRA.

D. Reporting Obligations

All IUP employees (including faculty, staff, managers, student employees, and administrators), contractors, vendors and designated volunteers are deemed "Responsible Employees" and are

required to immediately report actual or suspected sexual misconduct to the Title IX Coordinator. All University employees have a duty to report, unless they have been designated as having privilege or are considered a confidential employee (see below). Failure of an employee to report an incident of sexual misconduct of which they become aware, may be a violation of University policy subject to disciplinary action.

Generally, climate surveys, classroom writing assignments, classroom discussions, a University-approved research project, or events such as Take Back the Night marches or speak-outs do not constitute notice that must be reported to the Title IX Coordinator. Complainants may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator.

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, individuals are encouraged to report actual or suspected discrimination/misconduct as soon as possible.

Individuals who wish to report incidents of sexual discrimination/misconduct in University programs or activities may contact the Title IX Coordinator. Reports of sexual discrimination/misconduct may be made to the Title IX Coordinator via email, University website, phone, or in person at the contact information below:

Elise Glenn, Title IX Coordinator
Delaney Hall, Room B-17
920 Grant Street
Indiana, PA 15705-1046
Phone: 724-357-3402
title-ix@iup.edu

Any obligations of the Title IX Coordinator as set forth in this policy may be delegated to a Deputy Title IX Coordinator or other University official, as designated. Please be advised that the role of the Deputy Title IX Coordinator, *i.e.*, intake of complaints, investigation, and adjudication, may be reassigned depending on the matter that is presented, workload, scheduling conflicts, prior involvement with a particular student, etc. Staff in the Office of Student Conduct are cross-trained so as to be competent in handling these respective duties.

The Title IX Coordinator coordinates and oversees prompt, effective and impartial responses to Title IX and related sexual discrimination/misconduct complaints on both an individual and systematic basis, including the initiation of investigations and assisting University officials with the implementation of interim measures and remedies. The Title IX Coordinator is responsible for monitoring investigations and outcomes of sexual discrimination/misconduct complaints as assigned to University Investigators, Deputy Title IX Coordinators, or other University staff. The Title IX Coordinator will work with Office of Student Conduct and Human Resources to assure compliance with Title IX and other requirements. In addition, the Title IX Coordinator will serve as a liaison with the University's Police Department regarding matters arising under this policy.

The Deputy Title IX Coordinator will assist the Title IX Coordinator in assuring that the University provides adequate, reliable, and impartial investigations of sexual discrimination/misconduct complaints. This will include undertaking investigations of sexual discrimination/misconduct consistent with: (1) this policy and applicable collective bargaining agreements when an employee is the respondent; and (2) the Code of Student Conduct for complaints involving students as respondents. Additional duties of a Deputy Title

IX Coordinator include the training of Student Conduct members about Title IX procedural due process issues.

If the complaint is against the Title IX Coordinator, the complaint may be filed with the Associate Vice President for Human Resources. If the complaint is against the University President or a member of the Council of Trustees, it should be filed with the Office of Chief Counsel for the State System of Higher Education.

The complainant has the option at any time to file a complaint through an external public agency responsible for enforcing laws regarding discrimination (see below). Generally, this filing should take place within 180 days beginning with the date of the last alleged incident per Equal Employment Opportunity Commission requirements.

Equal Employment Opportunity Commission
1000 Liberty Avenue
Pittsburgh, PA 15222
(412) 644-3444
www.eeoc.gov

Pennsylvania Human Relations Commission
300 Liberty Ave., State Office Bldg., 11th Floor
Pittsburgh, PA 15222
(412) 565-5395
www.phrc.state.pa.us

U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue
Washington D.C. 20202-5151
(800) 421-3481
www.ed.gov/about/offices/list/ocr/index.html

E. Individuals with Privilege

IUP recognizes and honors privilege granted by applicable statutes. Licensed psychiatrists and psychologists, sexual assault counselors, recognized clergy and physicians working in Health Service functions as defined by state or federal law, are not required to disclose information concerning an allegation of sexual misconduct to the IUP Title IX Coordinator without the consent of the individual making the allegation. This privilege may not exempt the employee with privilege from other reporting obligations, including other policies or laws that require reporting to University Police, local law enforcement or a child protective service agency. All University mandated reporters must report suspected child abuse and child neglect consistent with the University's Protection of Minors Policy, <https://www.iup.edu/humanresources/policies/protection-of-minors/>.

F. Confidential Employees

Although a legally-recognized privilege may not attach to IUP employees who provide confidential services, the University respects expectations of privacy to the extent permissible by law while still ensuring compliance with other reporting obligations. Individuals authorized by the President, upon recommendation of the Title IX Coordinator, 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. Unless the alleged complainant consents to the release of their name, recognized individuals

providing confidential services will not release the name to the Title IX Coordinator. Designated confidentiality may not exempt the employee from other reporting obligations, including other policies or laws that require reporting to University Police, local law enforcement or a child protective service agency. All University mandated reporters must report suspected child abuse and child neglect consistent with the University's Protection of Minors Policy, <https://www.iup.edu/humanresources/policies/protection-of-minors/>.

G. Campus Security Authorities (CSA)

Individuals and organizations associated with the University that meet the definition of a CSA under Clery Act guidelines are required to report allegations of sexual violence to the University Police unless they meet the exemption requirements for Pastoral and/or Professional Counselors. A Pastoral Counselor is: A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor. A Professional Counselor is: A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of the counselor's license or function.

To be exempt from disclosing a reported allegation(s) of sexual violence, pastoral or professional counselors must be acting in the role of pastoral or professional counselor at the time the allegation is reported. An individual who is counseling students and/or employees, but who does not meet the Clery Act definition of pastoral or professional counselor, is not exempt from being a CSA if they have otherwise have significant responsibility for student and University activities.

CSA reports are used by the University to compile statistics for Clery Act reporting and to help determine if an incident constitutes a serious or continuing threat to the safety of the University community that would require a timely warning alert. Individuals or organizations identified as exempt from reporting requirements as discussed above may still meet the reporting requirements of a CSA without disclosing personally identifying information or triggering a police or disciplinary investigation if the complainant does not want to pursue this action. In all cases, the overall safety and security of the University community should be considered when allegations of sexual violence are presented to otherwise exempt persons or organizations. See information provided in "Other Confidentiality Requests" and "Privacy" below for guidance. Please note that all staff assigned to the Title IX function of the University are considered CSAs for Clery Act reporting purposes.

H. Other Confidentiality Requests

If a complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the complainant may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the University and comply with applicable law. In cases indicating pattern, predation, threat, weapons and/or violence, IUP may be unable to honor the complainant's request regarding confidentiality, investigation or pursuit of formal resolution.

I. Privacy

The University will protect the privacy of individuals involved in a report of sexual discrimination/misconduct to the extent permitted by law and by University policy. However, an investigation may involve interviews with a number of persons to determine if they have relevant evidence and extremely sensitive information may be gathered. University policy may also require the disclosure of certain confidential information during or following an investigation or hearing process to other University officials who, by virtue of their position, have a need to be aware of the complaint,

accommodations, or corrective or disciplinary action. The knowledge of the complaint among other University members will be limited as much as possible to preserve the privacy of involved individuals.

J. Jurisdiction

Individuals may be adjudicated for engaging in conduct that violates University policy or federal, state, or local law whether such conduct takes place on- or off-University property, or whether or not civil or criminal penalties may also be imposed for such conduct. A violation of this policy is not predicated upon a final determination by a court of law. In other words, it is not necessary for an individual to have been actually found to have violated a federal, state, or local law by a court of law in order to be disciplined under this policy. It is only necessary that an individual be found responsible for violations of University policy.

IUP Police or the law enforcement agency with primary jurisdiction will be provided priority access to crime scenes, victims, witnesses or items of evidence, etc., according to criminal procedure. This does not preclude the University from taking interim action(s) as deemed necessary for the protection of an individual(s), suspension of organizational activities and/or persons associated with an organization, including employees.

K. Standard of Proof

The standard of proof describes the level of proof that must be met in order to find a respondent responsible for a violation. The University uses the preponderance of the evidence (also known as “more likely than not”) as a standard for proof of whether a violation occurred. This standard is lower than the standard of proof applied in a criminal proceeding. In University resolution proceedings, legal terms like “guilt” and “innocence” are not applicable, but the University never assumes a respondent (person accused of violation the policy) is in violation of University policy. University resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources. There may be strong, definitive evidence presented to persuade the adjudicator that the respondent did or did not violate a particular section of this, or other University policy. There may also be ambiguities and contradictions which require the adjudicator to decide whom they believe, or whom they think is more credible. An individual is not considered to be “responsible” for any allegations until the completion of the process determines that it is more likely than not that the alleged violation of this policy occurred.

L. Evidence

Different types of information may be presented during an investigation or during a hearing. This may include direct evidence, which is based on personal observation or experience. Evidence may be circumstantial, which is information that does not include an eyewitness to the actual event, but does include enough information to lead a reasonable person to the conclusion that the individual did what they are alleged to have done. Evidence may include documents, which includes supportive writings or statements, reports, etc., that support or deny a fact at issue. Evidence may also be secondhand or "hearsay" evidence. While it is acceptable for the adjudicator to consider and hear second-hand information, hearsay evidence may not be the sole basis for establishing responsibility in a case.

The University is not bound by formal rules of evidence; however, evidence shall be inherently reliable. Evidence or information that may not be admissible in a court of law may be admissible in a conduct hearing or as part of an investigation. It is up to the adjudicator to decide what information is admissible as part of a hearing. It is up to the adjudicator to decide the credibility and relevance of information and the weight that they will assign to that information.

M. Burden of Proof

The burden of proof refers to who has responsibility of showing a violation has occurred. The University always carries the burden of proof when adjudicating a case. The respondent does not have the burden to prove that a violation did not occur. A respondent may decide not to share their side of the story or may decide not to participate in the hearing or an investigation. None of these decisions shifts the burden of proof away from the University.

N. Communication

University-issued electronic mail (email) is the official means of communication among the Office of Social Equity/Title IX Office, Office of Student Conduct, Office of Human Resources, students and employees on all matters pertaining to violations of this policy. The University may choose additional alternate means of communication with students, employees, contractors, vendors or designated volunteers.

O. Accommodations

Any student who requires reasonable accommodation in order to ensure their full and equal participation in an investigation or proceeding under this policy should make those requests directly to the Office of Student Conduct personnel who will act in consultation with the Department for Disability Access and Advising (D²A²). Students do not have to disclose information about the complaint or allegation of sexual misconduct to request reasonable accommodation, except to the extent that it may assist in the determination of reasonable accommodations.

Any employee, vendor or volunteer who requires reasonable accommodation in order to ensure their full and equal participation in an investigation or proceeding under this policy should make those requests directly to the Office of Human Resources.

Examples of reasonable accommodation include, but are not limited to, sign language interpretation, real-time communication access during hearings, large print documents, extended time to review documents, assistance with transcribing questions during interviews or hearings, or reasonable accommodations that facilitate communication during the process.

P. Definitions

1. **Adjudicator** – any University official or Student Conduct Board authorized to assess credibility of parties and witnesses, review evidence, evaluate sexual misconduct matters and determine whether a violation of the Sexual Discrimination/Misconduct Policy or the Code of Student Conduct occurred and ultimately assign sanctions if the finding in the case is of responsibility by the respondent.
2. **Advisor** – any person identified by a complainant, respondent, or witness to interact and consult privately with that individual prior to or during meetings and/or hearings conducted pursuant to this policy. An advisor may be any individual including, but not limited to, another student, a friend, a union representative, an IUP faculty or staff member, a family member, or an attorney. The advisor may consult and interact privately with the student, employee, contractor, vendor, volunteer, or the witness. However, the advisor is not permitted to have a verbal role in the proceedings or act as a representative unless otherwise specified in a collective bargaining agreement, as applicable. If an advisor does not act within the limitations outlined for them, a University official will request that the advisor comply with the limitations and warn them that if the noncompliance persists, the advisor will be required to be removed from the meeting or hearing.
3. **Complainant** – any person who originates an allegation of sexual discrimination/misconduct in violation of this policy or the Code of Student Conduct.

4. Consent – Consent is clear, and knowing, and affirmative, conscious and voluntary, words or actions, that give permission for specific sexual activity.
 - Consent is active, not passive.
 - Silence, in and of itself, cannot be interpreted as consent.
 - Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
 - Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
 - Previous relationships or prior consent cannot imply consent to future sexual acts.
 - Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
 - In order to give consent, one must be of legal age.
 - Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy.
 - Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout where the term “blackout” is defined as a period where memory formation is blocked.
 - The question of what the respondent should have known is objectively based on what a reasonable person in the place of the respondent, sober and exercising good judgment, would have known about the condition of the complainant.
 - Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).
 - This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs – drugs that in any way incapacitate the other person. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, or any drug that is used to incapacitate or impair the judgement of another, etc. is prohibited, and administering one of these drugs to another student is a violation of whether a sexual act results from the administration of the drug or not.
 5. Faculty Member – any person employed by the University who holds academic rank or performs teaching or research duties.
 6. Force – Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or that produces consent.
 - Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point may be viewed as coercive.
- NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not, by definition, forced.
7. Hearing Officer – University representative who is designated by the Office of Student Conduct and is appointed under the authority of the President of the University to adjudicate cases concerning a respondent who is a student alleged to have violated this policy.
 8. Respondent – an individual accused of violating this policy.
 9. Sanction – one or more consequences or requirements imposed due to the violation of this policy.

10. Staff – any person employed by the University or the Student Cooperative Association who is not considered faculty.
11. Student – any person from the time they accept admission to the University at any academic level, through graduation. This includes, but is not limited to, new students at orientation, persons currently under suspension, and any other person enrolled in a course offered by the University. It may also include any person who has graduated from the University if the University determines that their graduation or receipt of credit may have involved misconduct while working toward that credit or degree.
12. University – the community of faculty, staff, and students at IUP, as well as premises and facilities.
13. University Premises – all buildings or grounds owned, leased, operated, controlled, or supervised by the University or the Student Cooperative Association, or other recognized University-affiliated organization.
14. University Policy, Code, Regulation and Agreements – any written policy or otherwise published statement of expectations or requirements of the University - found in, but not limited to, this document, collective bargaining agreements, the contracts for residential rooms/suites/apartments (including dining contracts), the University website, and the graduate and undergraduate catalogues.
15. University Student Conduct Board – a panel of individuals made up of any combination of students, faculty, and staff empowered to adjudicate any allegation against a student of violation of University policies or the Code of Student Conduct. Board members are trained in the processes and procedures of conduct hearings by the Office of Student Conduct. Sexual Discrimination/Misconduct Policy investigatory and fact-finding process training is provided by the Title IX Coordinator or Deputy Title IX Coordinator.
16. Witness – any person who has been identified by the complainant, respondent, Title IX investigator, University Police, or other authorized investigator as having relevant first-person information concerning the alleged violation of one or more policies.

Q. Consensual Relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee, and some student/student relationships). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of faculty/staff policies or collective bargaining agreements, or this Sexual Discrimination/Misconduct Policy. The University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the University.

R. Sexual Misconduct Offenses (include but are not limited to)¹

- 1 – Sexual Harassment
- 2 – Non-Consensual Sexual Contact (or attempts to commit same)
- 3 – Non-Consensual Sexual Intercourse (or attempts to commit same)
- 4 – Sexual Exploitation
- 5 – Retaliation
- 6 – Other

¹ Use of alcohol or other drugs will never function to excuse any behavior that violates this policy.

NOTE: Intimate Partner Violence, defined as violence or abuse between those in an intimate relationship to each other, refers to both dating violence and domestic violence, which may be reportable as felony or misdemeanor crimes.² Acts of intimate partner violence may be charged as non-consensual sexual contact, non-consensual sexual intercourse, physical violence, or some other charge under this or another University policy.

1. Sexual Harassment:

Sexual harassment is unwelcome, sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct.³ Sexual harassment may be disciplined when it takes the form of quid pro quo harassment and/or creates a hostile environment.

- a. A hostile environment is created when sexual harassment is sufficiently severe, or persistent or pervasive, and objectively offensive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational and/or employment, social, and/or residential program.
- b. Quid Pro Quo Harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program or activity.

2. Non-Consensual Sexual Contact:

Non-Consensual Sexual Contact is any intentional sexual touching, however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual Contact includes: intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner.

3. Non-Consensual Sexual Intercourse:

Non-Consensual Sexual Intercourse is any sexual intercourse however slight, with any object by a person upon another person, that is without consent and/or by force. Intercourse includes: vaginal or anal penetration by a penis, object, tongue, or finger or any other body part, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

4. Sexual Exploitation:

Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy;
- Prostituting another person;
- Forcing a person to engage in sexual activity through coercion or intimidation;

² Under Pennsylvania law domestic abuse is knowingly, intentionally, or recklessly causing bodily injury of any kind, causing fear of bodily injury of any kind, assault (sexual or not sexual), rape, sexually abusing minor children, or knowingly engaging in a repetitive conduct toward a certain person (i.e. stalking) that puts them in fear of bodily injury. These acts can take place between family or household members, sexual partners or those who share biological parenthood in order to qualify as domestic abuse. Domestic violence includes felony or misdemeanor crimes of violence.

³ Purpose or intent is not an element of sexual harassment.

- Sexual slavery, defined as the state of being unlawfully kept in a situation in which one is repeatedly forced to engage in sexual activity against one's will;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals.

5. Retaliation:

Retaliation is defined as any adverse action taken against a person participating in a protected activity (asserting one's rights pursuant to this or other University policy), because of their participation in that protected activity. Retaliation will not be tolerated in situations including, but not limited to, adverse action against an individual for making an allegation, for supporting any given party, or for assisting in providing information relevant to an allegation.

6. Other:

- Alleged violation of federal, state, or local laws, regulations, or ordinances and other University policies and regulations, either printed or published on the University website, related to sex or gender discrimination or sexual misconduct.
- Any other University policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

S. Procedures

1. Informal Complaint Resolution Procedures:

- Informal complaint resolution may be available for the complaint to be resolved by mutual agreement between the complainant and the respondent with the approval of the Title IX Coordinator. This option can be requested by any complainant or respondent.
- To ensure compliance with the University's legal obligations or as otherwise determined to be appropriate by the complainant or the Title IX Coordinator, the complaint may be moved from the informal complaint resolution process to the formal complaint resolution process at any time prior to the agreement being executed.
- The Title IX Coordinator is expected to review the complaint expeditiously and explore avenues for informal resolution with the complainant and respondent, if appropriate. The written complaint or a summary of the complaint will be provided by the Title IX Coordinator, or designee, to the respondent. The Title IX Coordinator has the discretion to determine whether the situation warrants meeting(s), either jointly with the complainant and the respondent or separately. The complainant will not be compelled to meet with the respondent. The Title IX Coordinator has the discretion to determine whether the complaint requires an investigation, which may include interviewing other persons who may have witnessed the alleged behavior or might have information that would be relevant to the case.
- The Title IX Coordinator 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. 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.

- At the conclusion of the informal complaint resolution process, all procedural records will be maintained by the Title IX Coordinator in accordance with the University's records retention policy.

2. Formal Complaint Procedures:

- The formal complaint resolution process is initiated by a complaint being transferred from the informal complaint resolution process or by filing a complaint with the Title IX Coordinator. The complaint should describe the incident(s) as completely as possible. The complainant may seek assistance and guidance regarding submission of the complaint from the Title IX Coordinator, Deputy Title IX Coordinator, or University Investigator.
- At the direction of the Title IX Coordinator, a University Investigator will conduct an investigation. This may include:
 - Notifying the respondent in writing, providing a copy of the written complaint or a summary of the complaint to the respondent which includes the alleged violations, the dates, times, and locations of the alleged violations, and a summary of the actions which led to the allegation(s) of sexual misconduct;
 - Interviews with the complainant and the respondent and with anyone who might have witnessed the behavior or who might have information that would be relevant, as determined by the investigation;
 - Proceeding in a timely manner consistent with the complexity and severity of the matter;
 - Preparation of an investigation report;
 - Submission of the investigation report to the Title IX Coordinator, who will transmit the report to the President or designee:

In cases alleging sexual misconduct against a student, the referral is made to the Office of Student Conduct and proceeds according to the Student Conduct policies and process. The University Investigator will present the investigating report, which includes a summary of the charges. The complainant and respondent and all Student Conduct Board members may ask questions of all witnesses. Parties may not directly question each other and will be advised to write their questions, which will be posed by a neutral party questioner. The respondent may waive, in writing, their right to a hearing and accept one or more sanctions as determined by an adjudicator. A student who waives their right to a hearing, forfeits any right to appeal the assigned sanctions.

In cases alleging sexual misconduct by an employee, vendor or volunteer, the referral is made to the President or his designee and proceeds according to University disciplinary process and collective bargaining agreements, if applicable.

3. Review, Notice and Appeals for Employees, Contractors, Vendors and Volunteers:

- Review of Allegations:
The President (or designee) will review investigations conducted under this policy and render a decision regarding the allegation(s). An individual who violates this policy is subject to a range of sanctions imposed by University disciplinary processes and collective bargaining agreements, if applicable. The University shall take steps to prevent the recurrence of discrimination, harassment, or retaliation under this policy and to correct any discriminatory effects on the complainant and others, if appropriate.
- Notice of Outcome:
Once the President or designee has rendered a decision and notified the respondent in writing, the complainant will, to the extent permitted or mandated by applicable law, including

the Family Educational Rights and Privacy Act, be notified, 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 from the formal resolution process will be retained by the Office of Social Equity or designee in accordance with the University's records retention policy. Investigation reports and other supporting investigation documentation will not be maintained in official personnel files. Records of disciplinary action taken against an employee will be maintained in the official personnel file and in accordance with the requirements of any applicable collective bargaining agreement.

- Appeal Rights:

The respondent may appeal any discipline rendered as provided in the grievance procedures of his or her respective labor agreement or the Board of Governors' Merit Principles Policy (Policy 1983-01-A), as applicable.

4. Interim Measures, Review, Sanctions, Notice, and Appeals for Students:

- Interim Measures:

In a situation where it is determined that a continuation of the present circumstances presents a potential danger to the health, safety, or welfare to self, other students, or the University community, the Vice President for Student Affairs or their designee, in consultation with the Title IX Coordinator, may implement interim measures. The interim measures will remain in effect pending final disposition of the case. Interim measures are independent of any other measures taken by other parties at the University. After interim measures are implemented, the following process will be followed:

- As soon as possible but within 10 working days of the issuance of the interim measure, unless circumstances warrant an extension (to be approved by the Vice President for Student Affairs), the case will be adjudicated, usually by Student Conduct Board hearing.
- If the interim measure is not upheld upon the outcome of the hearing, the interim measure will no longer be in effect.
- It is the responsibility of the respondent to make arrangements with faculty members for completing missed work.
- When interim measures have been implemented, upheld by a board, and appealed by the student, the interim measure will remain in effect until an appeal outcome has been reached.

- Review of Allegations:

If the student is found in violation of University policies or applicable laws, sanctions will be determined by the adjudicator and transmitted to the Office of Student Conduct who will review and finalize (after consultation with the Title IX Coordinator), subject to appeals process by any party to the complaint.

- Possible Sanctions:

Student Sanctions (listed below and defined in the Code of Student Conduct) pursuant to IUP Code of Student Conduct procedures, include but are not limited to:

- Warning
- Probation
- Community Reparation
- Suspension
- Expulsion
- Withholding Diploma
- Revocation of Degree
- Transcript Notation
- Organizational Sanctions
- Other Actions

- Notice of Outcome:
The Adjudicator will communicate the decision to the parties to the extent permitted or mandated by law, including the Family Educational Rights and Privacy Act, and, if the student is found to be in violation of university policy or regulation, communicate the sanctions, as appropriate, in writing, within seven calendar days unless circumstances warrant an extension per approval by the Vice President of Student Affairs and the Title IX Coordinator.
- Appeals from Student Conduct Decisions:
Parties may appeal the decision in writing according to IUP Student Conduct policy and procedure for any of the following reasons:
 - Procedural error that likely impacted the hearing outcome.
 - New discovered information (applies when there is an acceptable reason to explain why the information could not be presented at the original hearing).
 - Allegation that sanctions issued were arbitrary and capricious. The appellant must show that the decision was not based upon consideration of relevant factors, reason, or judgment, or was an abuse of discretion or otherwise not in accordance with the Code of Student Conduct.

At the conclusion of any appeal process, the respondent and the complainant will be notified in writing of the outcome of the process and, at that time, the decision is final.

T. Federal Timely Warning Obligations

Victims of sexual misconduct should also be aware that University administrators must issue a timely warning for incidents reported to them that are confirmed to pose a serious or continuing threat to members of the University community. The University will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the threat.

U. Attempted Violations

The University will treat attempts to commit any of the violations listed in the Sexual Discrimination/Misconduct Policy as if those attempts had been completed.

V. False Reports

The University will not tolerate intentional false reporting of incidents. It is a violation of the Code of Student Conduct and may violate other University policies and applicable collective bargaining agreements to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.