

Sexual Discrimination/Misconduct Policy, Rev. 4-30-19

Indiana University of Pennsylvania

Excerpt:

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.