

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

Indiana University of Pennsylvania

Excerpt:

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.