INDIANA UNIVERSITY OF PENNSYLVANIA
Non-Discrimination Policy

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PURPOSE

To define what actions and conduct are prohibited under this Policy and processes Indiana University of Pennsylvania ("University") will undertake to respond to reports of discrimination, harassment, and sexual misconduct allegations. This Policy applies to all applicants for admission or employment, students, employees, recognized volunteers, officials, and contractors of the University.

The Pennsylvania State System of Higher Education and the University are committed to providing equal access to all individuals and prohibiting any form of discrimination and harassment on the basis of race, color, religion, national origin, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity and expression, pregnancy, genetic information, disability, status as a veteran, or any other characteristic prohibited under applicable federal or state law (each a "protected category") in any decision-making regarding admissions, employment, or participation in a University Education Program or Activity.

SCOPE OF POLICY

This Policy applies to on-campus and off-campus prohibited conduct. There is no time limit for reporting allegations of discrimination, harassment, or sexual misconduct; however, the University strongly encourages prompt reporting. If the reported Respondent is not a member of the University community or is no longer associated with the University at the time of the report or at the time a resolution process is initiated, the University may be unable to investigate or take disciplinary action and may be required to dismiss the complaint for a lack of jurisdiction.

LEGAL AUTHORITY

Discrimination, harassment, and sexual misconduct are currently prohibited under federal, state, and local laws including under Titles IV, VI and VII of the Civil Rights Act of 1964, as amended; the Americans with Disabilities Act; the Age Discrimination in Employment Act; Title IX of the Education Amendments of 1972 and its implementing regulations; and the Pennsylvania Human Relations Act.

This Policy is not intended to interfere with or replace any rights an individual may have under principles of due process, merit principles, an applicable collective bargaining agreement or applicable University or Board of Governors policies.

REPORTING

1. **Reporting to the University:** Any individual, including a third party, who becomes aware of behavior prohibited under this Policy may make a report to the Chief Diversity and Inclusion Officer and Title IX Coordinator in the Social Equity and Title IX Office. University administrators and supervisors who receive a verbal or written report of discrimination, harassment or sexual misconduct should contact the Chief Diversity and Inclusion Officer and Title IX Coordinator in the Social Equity and Title IX Office. While anonymous reports are accepted, the University's ability to address alleged misconduct reported anonymously may be significantly limited. Reports may be made at any time (including during non-business hours) by using the online reporting form (https://www.iup.edu/socialequity/report-an-incident-of-concern/index.html) or by contacting the Social Equity and Title IX Office directly at social-equity@iup.edu or during business hours by phone at 724-357-3402. If the Chief Diversity and Inclusion Officer and Title IX Coordinator determines the allegations, if true, may represent a violation of this Policy or a related policy, an investigator will be assigned. The Complainant or Reporting Individual will be notified that an investigation will occur, and the Respondent will be notified in writing of the allegations consistent with the requirements of the applicable policy and any applicable collective bargaining agreement(s). Allegations of Regulatory Prohibited Sexual Misconduct will follow the procedures set forth in the University's Sexual Discrimination and Sexual Misconduct Policy.

If the Chief Diversity and Inclusion Officer and Title IX Coordinator determines the allegations, if true, would not

constitute discrimination, harassment, or sexual misconduct prohibited under this Policy, the Reporting Individual will be advised in writing of that determination.

The Chief Diversity and Inclusion Officer and Title IX Coordinator will respond to all inquiries, reports, and requests, or refer the Reporting Individual to the appropriate office in a manner appropriate to the circumstances. This response may include interim measures to protect the parties during the investigation and/or informal resolution processes. Interim measures involving employees in collective bargaining units may be determined in consultation with the Office of Human Resources and labor relations representatives.

In the case of allegations against the President, the Social Equity and Title IX Office will communicate with and cooperate with the State System's Office of Chief Counsel to identify an investigator. The selected investigator will forward a report to the Chancellor or Designee for review and final determination.

In the case of allegations against the Chief Diversity and Inclusion Officer and Title IX Coordinator, the Office of the President will identify an investigator. The selected investigator will forward a report to the President or Designee for review and final determination.

In the case of allegations against an employee or agent of a Contractor, the matter may be referred to the Contractor for resolution.

2. Anonymous Reporting: Individuals may file an anonymous complaint with the State System's Incident Reporting System by calling 855-298-5316 or filling out a form online. The Incident Reporting System is not intended to take the place of the reporting and investigation procedures established at the University. Matters reported through the State System's Incident Reporting System may be referred to the University to be handled under applicable University policy.

3. **External Reporting:** In addition to reporting to the University via the reporting procedures in this Policy, individuals may file a discrimination complaint directly with the outside agencies listed below.

A complaint may be filed with the U.S. Department of Education's Office for Civil Rights regarding an alleged violation of Title IX by calling 1-800-421-3481 : 1-877-521-2172 TTY or emailing OCR.Philadelphia@ed.gov or visiting https://www2.ed.gov/about/offices/list/ocr/complaintintro.html.

A complaint may be filed with the Pennsylvania Human Relations Commission by calling 717-787-9780 for the Harrisburg Regional Office; 412-565- 5395 for the Pittsburgh Regional Office; or 215-560-2496 for the Philadelphia Regional Office; or by visiting https://www.phrc.pa.gov/File-a-Complaint/Pages/How-to-File-a-Complaint.aspx.

Employees may file a charge with the Equal Employment Opportunity Commission regarding an alleged violation of Title VII by calling 1-800-669-4000 or visiting https://www.eeoc.gov/employees/howtofile.cfm.

The filing of a complaint under this Policy does not obviate the need to meet time limits of outside agencies, which generally require reports to be made within 180 days of the alleged incident or knowledge of the incident. The University may not be informed of reports made to external agencies.

4. **Criminal Reporting Options:** An individual may report criminal conduct to law enforcement, independent of, or parallel with, any report made to the University: Indiana University Police: 724-357-2141; Indiana Borough Police: 724-349-2121; Pennsylvania State Police: 724-357-1960. The University may not be informed of reports made to law enforcement agencies.

Please Note: The University's policy, definitions, and burden of proof may differ from criminal law. Neither law enforcement's decision whether to prosecute, nor the outcome of any criminal prosecution, is determinative of

whether a violation of this Policy has occurred. In cases where there is a simultaneous law enforcement investigation, there may be circumstances when the University may need to temporarily delay its investigation; however, the University may choose to proceed with investigations even during the time of a pending law enforcement investigation.

RESOURCES

The University is committed to ensuring that individuals who experience discrimination, harassment, or sexual misconduct have access to a variety of services and resources. To talk with someone to receive support and assistance in a confidential setting, contact the following supportive resources, as applicable. Employees are eligible for crisis counseling by contacting the State Employee Assistance Program ("SEAP") at 800-692-7459. Students may contact a counselor at the University Counseling Center: 724-357-2621, counseling-center@iup.edu, G-31 Suites on Maple East.

TRAINING

The University will conduct annual training on discrimination, harassment, and sexual misconduct for employees and students and as part of new student and employee orientations. All faculty, staff, and administrators are required to participate in this training within 60 days of commencing employment and at least every year thereafter. Failure to do so may subject the individual to discipline.

FREE EXPRESSION AND ACADEMIC FREEDOM

The University is committed to the principles of free expression and academic freedom, applicable collective bargaining agreements, and related University policies, and to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community. The free expression of ideas is protected, even if the expressions are unpopular. Freedom of speech can sometimes protect offensive and hurtful language and controversial ideas; however, it does not protect personal harassment, discriminatory conduct, or other acts of misconduct as defined in this Policy, the Community Standards Policy, other University or BOG policies, or relevant federal, state, and local laws.

STATEMENT ON PRIVACY AND CONFIDENTIALITY

The University has a duty to respond to allegations of discrimination, harassment and sexual misconduct and cannot guarantee confidentiality once allegations are disclosed to designated University personnel. The University will respect the sensitivity of information disclosed during investigations or informal resolution efforts. This means that information about the complaint is shared only with those individuals within the University community who “need to know” to effectively investigate and/or resolve the complaint, implement interim measures, or provide support resources. Parties with a need to know include, but are not limited to, the Respondent, witnesses, and designated University personnel who need to be informed of the complaint as part of an investigation, implementing a resolution, implementing interim measures, or providing support. The University may be limited in restricting other individuals involved in the matter from sharing information with others. For more information on resources available to individuals who experience discrimination, harassment, or sexual misconduct, please refer to the Resources section of this document.

DISABILITY ACCOMMODATIONS

This Policy does not alter any obligations of the University under federal disability laws including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities from the Reviewing Office at any point before or during the resolution process that do not fundamentally alter the process. The Reviewing Office will not affirmatively provide disability

accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other University Education Programs and Activities.

RELATED POLICIES

The University's Sexual Discrimination and Sexual Misconduct Policy and/or Community Standards Policy shall govern the investigation of complaints of sexual misconduct and related allegations against Respondents who are Students.

Reports of alleged sexual misconduct against an Employee that are defined as "Regulatory Prohibited Misconduct" in the University's Sexual Discrimination and Sexual Misconduct Policy will be handled pursuant to the Sexual Misconduct Resolution Process set forth in that University Policy.

DEFINITIONS

1. Complainant: An individual who has reported being or is alleged to be subjected to conduct that could constitute a violation of this Policy or other relevant policies.

2. Contractor: An individual, program, company, or school that provides a program, activity, or service to the University. This includes experiential learning services such as internships, practicum experiences, pre-service teaching experiences, or other community service experiences in which the University places students. For purposes of this Policy, ROTC instructors and employees and officials of recognized affiliated entities will be considered Contractors.

3. Decision Maker: The individual or individuals appointed by the University to render a decision on a Formal Complaint. The Decision Maker will be free of conflict of interest and bias and will not serve as the Investigator, Title IX Coordinator, or an Advisor to any Party in the same matter. The President of the University or their designee shall serve as the Decision Maker for all cases involving a Respondent who is an employee.

4. Employee: An individual who is employed by the State System including, but not limited to, faculty members, coaches, staff, managers, and student employees (when acting in their capacity as employees).

5. Education Program or Activity: For purposes of this Policy, the term includes any activity that occurs in, on or within:

   (a) Any on-campus premises;

   (b) Any off-campus premises over which the University has substantial control. This includes buildings or property owned or controlled by a recognized student organization or a recognized affiliated entity; or

   (c) Computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, the University's programs and activities over which the University has substantial control.

6. Official: A member of a Council of Trustees or of the Board of Governors or their respective designees.

7. Respondent: Any individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

8. Reporting Individual: The individual making a report of discrimination, harassment, or sexual misconduct, who may or may not be the Complainant.

9. Student: Any person:

   (a) seeking admission to the University through the formal University application process;

   (b) admitted to the University;

   (c) eligible to register or schedule for classes.

   The term "Student" shall include Employees, Registered Volunteers, and Officials where the Employee, Volunteer or Official otherwise meets the enrollment criteria set forth in this definition and is acting in that capacity as it pertains to the complaint.

10. Recognized Volunteer: A recognized individual who represents or acts on behalf of the University or whose actions may bind the University, regardless of whether the individual receives monetary or other compensation. A Recognized Volunteer is one who has undergone background checks consistent with Protection of Minors Policy.

PROHIBITED CONDUCT

1. Discrimination: Conduct of any nature that denies a qualified individual the opportunity to participate in or benefit from a University Education Program or Activity, or otherwise adversely affects a term or condition of an individual's employment, education, or access to a University Education Program or Activity based on the individual's membership in a protected category.

   There are generally two types of discrimination recognized: disparate treatment and disparate impact. Disparate treatment discrimination involves a person being treated differently because of membership in a protected category. Disparate impact discrimination involves a practice that has a greater negative effect on members of a particular protected category than those not in the protected category.

2. Harassment: Unwelcome conduct directed against a person that is based on a protected category, that a reasonable person would determine is sufficiently severe or pervasive such that it has the effect of unreasonably interfering with access to a University Education Program or Activity or creates an intimidating, hostile, or offensive work or academic environment.

3. Sexual Misconduct: The University's Sexual Discrimination and Sexual Misconduct Policy (https://www.iup.edu/socialequity/policies/sexual-discrimination-and-sexual-misconduct/index.html) defines both regulatory and non-regulatory forms of Quid Pro Quo and Hostile Environment Sexual Harassment, Dating Violence, Domestic Violence, Sexual Assault, and Stalking. Those allegations defined as "Regulatory Prohibited Misconduct" in the University's Sexual Discrimination and Sexual Misconduct Policy will be handled pursuant to the Sexual Misconduct Resolution Process set forth in the University's Sexual Discrimination and Sexual Misconduct Policy.

   All other allegations of sexual misconduct against an Employee, Official, Registered Volunteer, or Contractor, including non-regulatory sexual misconduct, will be handled under the General Procedures set forth in this Policy.

   Allegations of sexual misconduct against a student, including regulatory and non-regulatory sexual misconduct, will be handled under the Sexual Misconduct Resolution Process set forth in the University's Sexual Discrimination and Sexual Misconduct Policy.

4. Retaliation: Any action, directly, indirectly, or through third parties, which is aimed to deter a reasonable person from reporting discrimination, harassment, or sexual misconduct or participating in an investigation, hearing, or

action done in response to such activities.

This includes, but is not limited to, intimidation, through coercion, or discrimination against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

A finding of retaliation under this Policy is not dependent on a finding that the underlying misconduct occurred.

5. False Report: Any person who willfully files a bad faith report or makes misrepresentations as part of a resolution of a complaint under this Policy is subject to disciplinary action up to and including dismissal or termination from the University.

GENERAL PROCEDURES

1. **Timeline:**

Absent unusual or extenuating circumstances or implementation of applicable collective bargaining agreement provisions, the resolution process typically takes about 90 days to resolve once a complaint has been filed.

2. **Written Notification of Allegations:** Upon the Reviewing Office's determination that a complaint should be investigated, the Respondent(s) will be notified in writing of the allegations and the identity of the Reporting Individual consistent with any applicable collective bargaining agreement. The University will assign an investigator. The investigation may be delayed, and the identity of the Complainant may be withheld consistent with collective bargaining agreement requirements if the Complainant is a student in the Respondent faculty member's class.

3. **Participation of Complainant or Respondent:** The participation of the Complainant and the Respondent is encouraged. The University reserves the right to initiate resolution proceedings without participation by either the Complainant or the Respondent and proceed with the information available.

4. **Role of Advisors/Union Representative**: During the resolution process, whether formal or informal, an employee Complainant and an employee Respondent may designate and be accompanied by an advisor of that individual's choosing from the University community at meetings and interviews; however, no advisor may speak for or on behalf of the party or otherwise actively participate in a meeting or interview except as part of a reasonable accommodation. An individual may only have one advisor present at a time. A Respondent who is a member of a collective bargaining unit may designate a union representative as their advisor. Legal counsel for either party may not act in the capacity of an advisor as part of the resolution process.

During the resolution process, whether formal or informal, a student Complainant and a student Respondent may designate and be accompanied by an advisor of that individual's choosing at meetings and interviews; however, no advisor may speak for or on behalf of the party or otherwise actively participate in a meeting or interview except as part of a reasonable accommodation.

5. Informal Resolution: Informal means of resolution, such as mediation or restorative justice, may be used as alternatives to the formal investigation and hearing procedures. Upon written agreement of the Complainant and the Respondent, informal resolution may be initiated at any time prior to a finding of responsibility by the applicable decision maker and may be terminated by either party at any time prior to final resolution. If the informal process is terminated, the General Procedures process, which includes an investigation, may continue.

If a resolution has been reached and a written agreement signed by all parties and the University, the resolution may

not be appealed.

6. **Effect on Pending Disciplinary Actions:** Allegations of a violation of this Policy may not stop or delay any evaluation or disciplinary action related to either a Complainant or Respondent.

7. **Investigation Process:** The investigator(s) will review and investigate the complaint. The investigator will provide to the Decision Maker an investigative report which includes a summary of possible policy violation(s) and copies of relevant evidence through an electronic format or a hard copy. The Complainant and the Respondent will be notified of the conclusion of the investigation and provided with a copy of the investigation report, including access to relevant evidence. Information that is confidential by law or policy or not relevant to the underlying allegations may be redacted.

8. **Pre-Disciplinary Conference for Employees:** For cases involving employee Respondents, the Decision Maker will conduct a pre-disciplinary conference as required by the governing collective bargaining agreement or board or university policy prior to issuing a final determination.

9. **Incident Review Meeting or Formal Hearing for Students:** For cases involving student Respondents, the Decision Maker will conduct an Incident Review Meeting or arrange for a Formal Hearing prior to issuing a final determination.

10. **Final Determination:** The burden of proof for demonstrating violation of this Policy is on the University. The standard of proof is the preponderance of the evidence, meaning the Decision Maker must find it is more likely than not that a violation of the Policy occurred. If an employee is found to be in violation of this Policy, the governing collective bargaining agreement or board or university policy will be followed.

The Decision Maker may issue any combination of the following results concerning the investigation report:

a. Not in Violation – If there is insufficient information to warrant a finding of a violation of this Policy, the matter will be closed.

b. In Violation – If there is sufficient evidence to support a finding that this Policy has more likely than not been violated, the finding(s) of responsibility will be forwarded to the appropriate office for disciplinary action, consistent with applicable University and Board of Governors policy and collective bargaining agreements.

11. **Notification of Conclusion of Process:** Following the issuance of a final determination by the Decision Maker, the parties shall receive notification that the resolution process has been concluded. The decision of the Decision Maker is final.

DISCIPLINARY SANCTIONS

1. Students – The University may impose disciplinary sanctions upon Students, consistent with the University's Sexual Discrimination and Sexual Misconduct Policy or Community Standards Policy.

2. Employees – Disciplinary sanctions imposed on an Employee for violating this Policy, subject to applicable collective bargaining agreement/memoranda of understanding and/or University/System policies, may include a penalty up to and including separation from employment.

3. Officials and Volunteers – Disciplinary sanctions imposed on an Official or Volunteer may include a penalty up to and including removal or the request for removal of the Official or Volunteer from the respective position.

4. Contractors – Violations of this Policy by a Contractor or any employee or agent of the Contractor may result in the exercise of any contractual remedies including, but not limited to, termination of the contract for fault or for

convenience and referral for disbarment.

INTERPRETATION AND REVISION

Procedural rules for investigations and the administration of hearings will be developed that are consistent with provisions of the Non-Discrimination Policy. A material deviation from these rules will, generally, only be made as necessary and may include reasonable notice to the parties involved either by posting online and/or in the form of written communication. Procedures may vary with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy. Minor modifications to a procedure that do not materially jeopardize the fairness owed to any party may be made at the discretion of the President of the University as appropriate. Any question of interpretation of the Non-Discrimination Policy will be referred to the President of the University, whose interpretation is final. Non-Discrimination and related Policies and Procedures shall be updated as necessary to comply with applicable law, policy, or regulation. The review process shall be coordinated by the President of the University or designee.

EFFECTIVE DATE

This Policy is effective immediately following approval and replaces all other policies whether in print or electronic format.